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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 OKLAHOMA POLICE PENSION AND
17 RETIREMENT SYSTEM, Individually and On
Behalf of All Others Similarly Situated,

Case No.:

18 Plaintiff,

**CLASS ACTION COMPLAINT FOR
VIOLATION OF THE FEDERAL
SECURITIES LAWS**

19 v.
20 **DEMAND FOR JURY TRIAL**

PLAYAGS, INC., DAVID LOPEZ, KIMO
AKIONA, DAVID SAMBUR, DANIEL
COHEN, ERIC PRESS, YVETTE LANDAU,
ADAM CHIBIB, GEOFF FREEMAN, CREDIT
SUISSE SECURITIES (USA) LLC,
DEUTSCHE BANK SECURITIES INC.,
JEFFERIES LLC, MACQUARIE CAPITAL
(USA) INC., MERRILL LYNCH, PIERCE,
FENNER & SMITH INCORPORATED,
CITIGROUP GLOBAL MARKETS INC.,
STIFEL, NICOLAUS & COMPANY
INCORPORATED, SUNTRUST ROBINSON

26 *Caption Continued on Next Page...*

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28

1 HUMPHREY, INC., NOMURA SECURITIES
 2 INTERNATIONAL, INC., ROTH CAPITAL
 3 PARTNERS, LLC, UNION GAMING
 4 SECURITIES LLC, THE WILLIAMS
 5 CAPITAL GROUP, L.P., APOLLO GLOBAL
 6 SECURITIES, LLC, MORGAN STANLEY &
 7 CO LLC, APOLLO GLOBAL
 8 MANAGEMENT, LLC, APOLLO GAMING
 9 HOLDINGS, L.P., APOLLO INVESTMENT
 10 FUND VIII, L.P., and AP GAMING VOTECO,
 11 LLC

12 Defendants.

13

14 Plaintiff Oklahoma Police Pension and Retirement System (“Plaintiff”), individually and
 15 on behalf of all others similarly situated, by and through its attorneys, alleges the following upon
 16 information and belief, except as to those allegations concerning Plaintiff, which are alleged
 17 upon personal knowledge. Plaintiff’s information and belief is based upon, among other things,
 18 its counsel’s investigation, which includes without limitation: (i) review and analysis of
 19 regulatory filings made by PlayAGS, Inc. (“PlayAGS” or the “Company”) with the United States
 20 (“U.S.”) Securities and Exchange Commission (“SEC”); (ii) review and analysis of press
 21 releases and media reports issued by and disseminated by PlayAGS; and (iii) review of other
 22 publicly available information concerning PlayAGS.

23 **I. SUMMARY OF THE ACTION AND OVERVIEW**

24 1. Plaintiff brings this securities class action (the “Action”) on behalf of all persons
 25 or entities who purchased or otherwise acquired PlayAGS common stock during the period from
 26 May 3, 2018 through August 7, 2019, both dates inclusive (the “Class Period”), against the
 27 Exchange Act Defendants (as defined herein) for violations of Sections 10(b) and 20(a) of the
 28 Securities Exchange Act of 1934 (the “Exchange Act”), and SEC Rule 10b-5 promulgated
 thereunder.

29 2. Plaintiff also brings the Action on behalf of all persons and entities that purchased
 30 or otherwise acquired PlayAGS common stock pursuant and/or traceable to: (i) the registration
 31 statement, prospectus, and prospectus supplement (the “August 2018 SPO Materials”) issued in
 32 connection with the Company’s August 2018 offering (the “August 2018 SPO”); and/or (ii) the

1 registration statement, prospectus, and prospectus supplement (the “March 2019 SPO Materials”)
 2 issued in connection with the Company’s March 2019 offering (the “March 2019 SPO”), against
 3 the Securities Act Defendants (as defined herein) for violations of Sections 11, 12(a)(2), and 15
 4 of the Securities Act of 1933 (the “Securities Act”).

5 3. Under Sections 11 and 12(a)(2) of the Securities Act, the Securities Act
 6 Defendants are strictly liable for any false and misleading statements in the August 2018 SPO
 7 Materials and March 2019 SPO Materials (together, the “PlayAGS Offering Materials”).
 8 Plaintiff therefore expressly excludes and disclaims any allegation that could be construed as
 9 alleging fraud or intentional or reckless conduct as to the Securities Act claims.

10 4. Based in Las Vegas, Nevada, PlayAGS is a designer and supplier of electronic
 11 gaming machines (“EGMs”), primarily to Native American tribal customers. The Company
 12 operates through three business segments: (i) EGM Segment, which accounts for approximately
 13 95 percent of the Company’s revenue, and consists of a library of hundreds of proprietary game
 14 titles; (ii) Table Products, which encompasses more than 40 table product offerings, including
 15 live felt table games, side bet offerings, progressives, card shufflers, signage, and other ancillary
 16 table game equipment; and (iii) Interactive, which traditionally offered Business-to-Consumer
 17 (“B2C”) social casino games including online versions of the Company’s game titles, and
 18 following the June 2018 acquisition of Gameiom Technologies Limited (formerly known as
 19 “Gameiom”, and currently known as “AGS iGaming”), also offers a Business-to-Business
 20 (“B2B”) platform for content aggregation used by real-money gaming (“RMG”) and sports-
 21 betting partners.

22 5. Most of the Company’s EGMs are electronic slot machines that generate revenue
 23 for the Company through percentage-based fee-sharing agreements with casinos or fixed-price
 24 leasing arrangements. The Company generates a significant amount of its revenues from EGMs
 25 that are placed in Native American casinos located in Oklahoma. In 2019, Oklahoma-based
 26 revenue accounted for approximately 24 percent of the Company’s total revenue.

27 6. In December 2013, Apollo Global Management, LLC (“Apollo”), through its
 28 affiliates: Apollo Gaming Holdings, L.P. (“Apollo Gaming”), Apollo Investment Fund VIII, L.P.

1 (“Apollo Investment”), and AP Gaming VoteCo, LLC (“VoteCo”) (together, “Apollo Group”),
 2 acquired PlayAGS. At the start of the Class Period, Apollo, through Apollo Group, beneficially
 3 held the majority of the Company’s common stock, and was therefore PlayAGS’ controlling
 4 stockholder.

5 7. On August 6, 2018, PlayAGS filed a shelf registration statement with the SEC on
 6 Form S-3 (the “Shelf Registration Statement”), which was declared effective by the SEC on
 7 August 8, 2018. Pursuant to the Shelf Registration Statement, the Company registered for resale,
 8 on behalf of Apollo Gaming, 18,970,161 shares of common stock, for an offering price of up to
 9 \$1 billion, which shares were permitted to be sold on a rolling basis.

10 8. On August 10, 2018, the Company filed a prospectus supplement on Form 424B1
 11 with the SEC which, together with the Shelf Registration Statement, forms part of the August
 12 2018 SPO Materials. In the August 2018 SPO, PlayAGS, on behalf of Apollo Gaming,
 13 registered for resale up to an aggregate of 6,325,000 shares of its common stock, including the
 14 underwriter allotment of 825,000 shares, at the public offering price of \$29.25 per share. Net of
 15 underwriting discounts and commissions, the August 2018 SPO was valued at \$154,037,812.50.
 16 Directly prior to the August 2018 SPO, Apollo Group held approximately 52 percent of
 17 PlayAGS common stock, and held approximately 34 percent following its completion.

18 9. On March 20, 2019, the Company filed a prospectus supplement on Form 424B1
 19 with the SEC, which, together with the Shelf Registration Statement, forms part of the March
 20 2019 SPO Materials. In the March 2019 SPO, PlayAGS, on behalf of Apollo Gaming, registered
 21 for resale up to an aggregate of 4,000,000 shares of its common stock at the public offering price
 22 of \$25.50 per share. Net of underwriting discounts and commissions, the March 2019 SPO was
 23 valued at \$100,000,000. Directly prior to the March 2019 SPO, Apollo Group held
 24 approximately 33 percent of PlayAGS common stock, and held approximately 22 percent
 25 following its completion.

26 10. The PlayAGS Offering Materials all touted the Company’s purported competitive
 27 strengths and key growth strategies. These growth strategies included the optimization of the
 28 Company’s older, underperforming EGMs with newer, more profitable EGMs. In the PlayAGS

1 Offering Materials, the Company discussed the success of this strategy that has been in place
 2 since 2016 and highlighted how this strategy had recently been effective at a casino in
 3 Oklahoma. Another touted growth strategy in the PlayAGS Offering Materials was the
 4 Company's placement of new Class II EGMs within its existing markets.¹

5 11. At the time of the August 2018 SPO and March 2019 SPO (together, the
 6 "PlayAGS Offerings") as well as throughout the Class Period, Defendants made materially false
 7 and/or misleading statements and/or omissions. Specifically, the PlayAGS Offering Materials
 8 and Defendants' Class Period statements were false and/or misleading because they omitted that:
 9 (i) PlayAGS' growth strategies were failing; (ii) the Company was experiencing major execution
 10 issues in Oklahoma; (iii) therefore, the Company's purported competitive strengths were not
 11 reasonably likely to lead to increased revenue; (iv) the Company's internal controls over
 12 financial reporting were not effective; and (v) as a result of the foregoing, Defendants' positive
 13 statements about the Company's business, operations, and prospects were materially misleading
 14 and/or lacked a reasonable basis.

15 12. The true state of PlayAGS' financial well-being, growth prospects, and internal
 16 controls over financial reporting were revealed to investors on August 7, 2019, when the
 17 Company reported its second quarter 2019 results. On that date, PlayAGS shocked the market
 18 by reporting a net loss of \$7.6 million, or negative \$0.21 earnings per share (versus expectations
 19 of positive \$0.14 per share). This loss included an impairment of goodwill of \$3.5 million and
 20 an impairment of intangible assets of \$1.3 million related to the acquired AGS iGaming business
 21 within its Interactive segment. The Company also reported disappointing quarterly revenues of
 22 \$74.5 million (or growth of 2 percent year-over-year), and adjusted earnings before interest,
 23 taxes, depreciation, and amortization ("EBITDA") of \$35.7 million (down 2 percent year-over-

25 1 EGMs that are located in casinos at Native American reservations are classified under
 26 the federal Indian Gaming Regulatory Act as either Class II machines or Class III machines.
 27 While Class II and Class III EGMs look the same to a player, there are several differences
 28 between them. First, the winning odds for a player are generally better for Class III EGMs.
 Second, Class II EGMs are self-regulated by Native American tribes while Class III EGMs are
 regulated by the respective U.S. state. Based on these differences, Class II EGMs are more
 prevalent in Native American casinos.

1 year). PlayAGS also lowered its full-year 2019 adjusted EBITDA guidance to a range of \$145
 2 million to \$150 million (or growth of 6 to 10 percent year-over-year), down from its previous
 3 guidance of a range of \$160 million to \$164 million.

4 13. PlayAGS attributed the weak results to product underperformance at three
 5 Oklahoma properties and problems with its placement of 800 incremental EGMS into the
 6 Oklahoma market over the past year, as well as the iGaming impairment charges and an increase
 7 in research and development operating expenses as part of its strategic growth initiatives.

8 14. That same day, during an earnings call with analysts and investors, the
 9 Company's Chief Executive Officer ("CEO"), Defendant David Lopez ("Lopez"), provided
 10 more detail about the Company's failed growth initiatives in Oklahoma, stating:

11 11 [W]e are experiencing some challenges in Oklahoma, where we
 12 have our largest base of recurring revenue, EGMS.

13 12 We mentioned several factors for decreased [revenue per day]
 14 earlier and one of the issues we are actively working to fix is
 15 product underperformance. I'll give you some color on what's
 16 driving this. *Over the past year*, we've grown our Oklahoma
 17 footprint with 800 incremental units and separately optimized
 18 numerous existing units. Some of the underperformance is a result
 19 of going too hard and fast into the market with certain products.
 20 We also went too deep into our portfolio of titles, where we should
 21 have focused on our most successful game themes.

22 (emphasis added).

23 15. In reaction to these disclosures, analysts expressed their concerns and
 24 immediately downgraded PlayAGS stock. The news was of such surprise to Bank of America
 25 Merrill Lynch that it downgraded its rating on PlayAGS stock by two levels (from "Buy" to
 26 "Underperform") and slashed its PlayAGS price target by over 50 percent from \$30 to \$14,
 27 citing concerns of faltering growth.

28 16. On this news, PlayAGS stock dropped \$8.99 per share, or 52 percent, to close at
 29 \$8.31 per share on August 8, 2019.

30 17. By the commencement of this Action, PlayAGS stock was trading as low as \$3.58
 31 per share, an approximately 88 percent decline from the \$29.25 per share August 2018 SPO
 32 price, and 86 percent decline from the \$25.50 per share March 2019 SPO price.

1 18. As a result of Defendants' wrongful acts and omissions, and the precipitous
 2 decline in the market value of the Company's securities, Plaintiff and other Class members have
 3 suffered significant losses and damages.

4 **II. JURISDICTION AND VENUE**

5 19. The claims asserted herein arise under and pursuant to Sections 11 and 15 of the
 6 Securities Act (15 U.S.C. §§ 77k and 77o), and Sections 10(b) and 20(a) of the Exchange Act
 7 (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R.
 8 § 240.10b-5).

9 20. This Court has jurisdiction over the subject matter of this action pursuant to 28
 10 U.S.C. § 1331, Section 22 of the Securities Act (15 U.S.C. § 77v), and Section 27 of the
 11 Exchange Act (15 U.S.C. § 78aa).

12 21. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b), Section
 13 22 of the Securities Act (15 U.S.C. § 77v(c)), and Section 27 of the Exchange Act (15 U.S.C.
 14 § 78aa(c)). The Company's principal executive offices are located in this district.

15 22. In connection with the acts, transactions, and conduct alleged herein, the
 16 Exchange Act Defendants (defined herein) directly and indirectly used the means and
 17 instrumentalities of interstate commerce, including the United States mail, interstate telephone
 18 communications, and the facilities of a national securities exchange.

19 **III. BACKGROUND FOR ALL CLAIMS ASSERTED HEREIN**

20 23. Based in Las Vegas, Nevada, PlayAGS is a designer and supplier of EGMs. The
 21 Company operates through three business segments: (i) EGM Segment, which accounts for
 22 approximately 95 percent of the Company's revenue, and consists of a library of hundreds
 23 proprietary game titles; (ii) Table Products, which encompasses more than 40 table product
 24 offerings, including live felt table games, side bet offerings, progressives, card shufflers, signage,
 25 and other ancillary table game equipment; and (iii) Interactive, which traditionally offered B2C
 26 social casino games including online versions of the Company's game titles, and following the
 27 June 2018 acquisition Gameiom, currently known as AGS iGaming, also offers a B2B platform
 28 for content aggregation used by RMG and sports-betting partners.

1 24. Most of the Company's EGMs are electronic slot machines that generate revenue
 2 for the Company through percentage-based fee-sharing agreements with casinos or fixed-price
 3 leasing arrangements. PlayAGS focuses on supplying its EGMs to the Native American gaming
 4 market. The Company generates a significant amount of its revenues from EGMs that are placed
 5 in Native American casinos located in Oklahoma. In 2019, Oklahoma-based revenue accounted
 6 for approximately 24 percent of the Company's total revenue.

7 25. In December 2013, Apollo, through the Apollo Group, acquired PlayAGS. At
 8 the start of the Class Period, Apollo, through Apollo Group, beneficially held the majority of the
 9 Company's common stock, and was therefore PlayAGS' controlling stockholder.

10 **IV. SUBSTANTIVE ALLEGATIONS FOR VIOLATIONS OF THE EXCHANGE
 ACT**

11 26. The claims set forth herein pursuant to Sections 10(b) and 20(a) of the Exchange
 12 Act, and SEC Rule 10b-5 promulgated thereunder, are based on knowing or reckless misconduct
 13 by the Exchange Act Defendants. These claims are independent of the Securities Act Claims
 14 asserted herein and the allegations of fraud pertaining to the claims under the Exchange Act and
 15 SEC Rule 10b-5 do not apply in any way to the other claims for relief asserted herein.

16 **A. Parties**

17 27. Plaintiff, as set forth in the accompanying certification, incorporated by reference
 18 herein, purchased or otherwise acquired PlayAGS common stock during the Class Period, and
 19 suffered damages as a result of the violations of the Exchange Act alleged herein.

20 28. Defendant PlayAGS is incorporated under the laws of Nevada with its principal
 21 executive offices located in Las Vegas, Nevada. PlayAGS's common stock trades on the New
 22 York Stock Exchange ("NYSE") under the symbol "AGS."

23 29. Defendant Lopez was, at all relevant times, the PlayAGS' CEO, as well as a
 24 Director of the Company.

25 30. Defendant Kimo Akiona ("Akiona") was, at all relevant times, the Chief Financial
 26 Officer ("CFO") of the Company.

1 31. For the purposes of the Exchange Act violations alleged herein, Lopez and
 2 Akiona, may hereafter be referred to at times as the “Individual Exchange Act Defendants.” The
 3 Individual Exchange Act Defendants, because of their positions with the Company, possessed
 4 the power and authority to control the contents of the Company’s reports to the SEC, press
 5 releases and presentations to securities analysts, money and portfolio managers and institutional
 6 investors, *i.e.*, the market. The Individual Exchange Act Defendants were provided with copies
 7 of the Company’s reports and press releases alleged herein to be misleading prior to, or shortly
 8 after, their issuance and had the ability and opportunity to prevent their issuance or cause them to
 9 be corrected. Because of their positions and access to material non-public information available
 10 to them, the Individual Exchange Act Defendants knew that the adverse facts specified herein
 11 had not been disclosed to, and were being concealed from, the public, and that the positive
 12 representations which were being made were then materially false and/or misleading. The
 13 Individual Exchange Act Defendants are liable for the false statements pleaded herein.

14 32. Defendant Apollo, through Apollo Group, acquired PlayAGS in 2013. At the
 15 start of the Class Period, Apollo beneficially held over 50 percent of the Company’s common
 16 stock.

17 33. Defendant Apollo Gaming, as part of Apollo Group, acquired PlayAGS in 2013.
 18 At the start of the Class Period, Apollo Gaming held over 50 percent of the Company’s common
 19 stock.

20 34. Defendant Apollo Investment, as part of Apollo Group, acquired PlayAGS in
 21 2013. Apollo Investment is a member of Apollo Gaming Holdings GP, LLC (“Apollo Gaming
 22 GP”), the general partner of Apollo Gaming. At the start of the Class Period, Apollo Investment
 23 beneficially held over 50 percent of the Company’s common stock.

24 35. Defendant VoteCo, as part of Apollo Group, acquired PlayAGS in 2013. At the
 25 start of the Class Period, VoteCo beneficially held over 50 percent of the Company’s common
 26 stock pursuant to an irrevocable proxy granting it sole voting and sole dispositive power with
 27 respect to the shares held by Apollo Gaming. VoteCo is owned and controlled by Apollo
 28 affiliates.

1 36. For the purposes of the Exchange Act violations alleged herein, PlayAGS, the
 2 Individual Exchange Act Defendants, Apollo, and Apollo Group, may hereafter be referred to at
 3 times as the “Exchange Act Defendants.”

4 **B. Materially False and Misleading Class Period Statements**

5 37. The Class Period begins on May 3, 2018. On that date, PlayAGS announced its
 6 first quarter 2018 financial results, reporting a 36 percent year-over-year increase in total revenue
 7 over the prior year period to \$64.9 million. Also according to the earnings release, in the first
 8 quarter 2018, PlayAGS sold 838 EGMS, up 85 percent year-over-year. Finally, the Company
 9 reported that net loss improved to \$9.5 million from \$12.4 million. Moreover, PlayAGS
 10 increased its guidance. The press release stated, in relevant part:

11 **First Quarter Financial Highlights**

- 12 • Total revenue increased 36% to \$64.9 million, a company
 13 record, driven by continued growth of our EGMS in the Class
 14 III marketplace, led by demand for our newer premium Orion
 15 Portrait cabinet.
- 16 • Recurring revenue grew to \$49.6 million or 23% year-over-
 17 year, primarily attributable to the contribution of EGMS
 18 purchased from Rocket Gaming and Table Products purchased
 19 from In Bet in the Fall of 2017, as well as our yield
 20 optimization efforts and the popularity of the Orion Portrait
 21 cabinet.
- 22 • EGM equipment sales increased 107% to \$15.2 million,
 23 another company record, due to the sale of 838 units,
 24 approximately 60% of which were Orion Portrait cabinet.
- 25 • Adjusted EBITDA increased to \$34.5 million, or 39%, driven
 26 by an increase in revenue, and partially offset by increased
 27 adjusted operating expenses of \$3.8 million primarily due to
 28 increased headcount in our R&D studios including our new
 studio in Sydney, Australia.
- 29 • Total adjusted EBITDA margin increased to 53% in the first
 30 quarter 2018 compared to 52% driven by several different
 31 factors, most notably due to the operating leverage from the
 32 assets purchased from Rocket Gaming.
- 33 • SG&A expenses increased \$6.5 million in the first quarter of
 34 2018 primarily due to an initial non-cash charge of \$6.2 million
 35 in stock based compensation recorded in connection with the
 36 IPO, as well as increased costs due to higher headcount.
- 37 • R&D expenses increased \$3.3 million in the first quarter of
 38 2018 driven by an initial non-cash charge of \$1.6 million in

1 stock based compensation recorded in connection with the IPO,
 2 as well as increased headcount, and the development of our
 3 new Orion Slant cabinet and DEX S card shuffler.

4

- 5 Net loss also improved to \$9.5 million from \$12.4 million,
 6 which included non-cash stock based compensation in the
 7 current quarter of \$8.2 million versus no non-cash stock based
 8 compensation in the prior year.

9 * * *

10 **2018 Outlook**

11 Based on our year-to-date progress and due to our current
 12 momentum, we now expect our adjusted EBITDA in 2018 to be
 13 between \$126 and \$131 million. This is an upward revision to the
 14 guidance we previously released and is based on greater visibility
 15 that we now have for Orion Portrait and other products throughout
 16 the year. We maintain our capital expenditures range of \$55 to \$60
 17 million.

18 38. Additionally in the earnings release, Defendant Lopez was quoted touting the
 19 expansive growth in PlayAGS' EGM Segment, stating in relevant part:

20 “The first quarter of 2018 was absolutely tremendous for AGS -
 21 we achieved records in every key category, including revenue,
 22 adjusted EBITDA, average selling price, and recurring revenue.
 23 We reported the most EGM sales revenue in our company’s history
 24 with 838 units sold, driven largely by the continued success of the
 25 Orion Portrait cabinet, while our Tables and Interactive segments
 26 both reported their strongest EBITDA quarters to date,” said David
 27 Lopez, President and CEO of AGS. “With industry-leading game
 28 performance and the recent introduction of the new Orion Slant,
 AGS shows no signs of slowing down and we are confident that
 29 2018 will be our best year yet.”

30 39. The same day, the Company filed its quarterly report on Form 10-Q with the SEC
 31 for the period ended March 31, 2018, affirming the previously reported financial results. The
 32 report also stated that the Company’s disclosure controls and procedures were effective.

33 40. Additionally on May 3, 2018, PlayAGS held an earnings call with analysts and
 34 investors to discuss the Company’s first quarter 2018 financial results. On the call, Defendant
 35 Lopez discussed the Company’s Oklahoma expansion, as well as the successful execution of
 36 PlayAGS’ legacy EGM optimization strategy, stating in relevant part:

37 Turning to our EGM segment on Slide 5. We ended Q1 with a total
 38 recurring EGM base of 24,033 units up 13% year-over-year. In
 39 addition to the inclusion of the Rocket EGMs, recurring unit
 40 growth was bolstered by the 4 wins opening in Q1 where AGS
 41 received approximately 14% of the floor. Additionally, we

benefited from a couple of expansions in Oklahoma. We continue to execute on our yield optimization strategy upgrading 1650 of our legacy machines on a trailing 12 month basis with our latest high-performing products. This mission serves to grow our recurring revenue and protect our base as well as support our loyal long-term customers by providing them with our newer, more profitable products. As of Q1, approximately \$5.6 million of our recurring revenue came from our optimization efforts over the past two years. We sold 838 EGMs for a total of \$15.2 million in sales revenue for the quarter up 107% over the prior year period.

41. Additionally on the call, Defendant Akiona attributed EGM Segment revenue growth, in part, to the expansion of PlayAGS' Oklahoma business, stating in relevant part:

Turning to our EGM segment, gaming operations revenue increased 22% in the first quarter to a record \$46 million. The year-over-year increase primarily reflects a larger domestic install base that grew by over 2500 units or 18%. Approximately, 1500 of the unit increase was from the Rocket Gaming asset acquisition and the remaining organic increase was led by increases in Texas, Nevada, Florida and California. Also in the first quarter, we saw the install base grow in Indiana and Oklahoma by nearly 500 units from new casino openings and expansions notably the 4 wins property in Indiana where we installed nearly 250 units in the quarter.

42. On June 19, 2018, PlayAGS announced that it had acquired Gameiom, which would become part of the Company's Interactive business. In a press release, the Company stated, in relevant part:

AGS (“the Company”) (NYSE: AGS) announced today it has acquired Gameiom Technologies Limited (“Gameiom”), a UK and Gibraltar licensed iGaming aggregator and content provider for real-money gaming (“RMG”) and sports- betting partners. This transaction bolsters AGS’ diverse product portfolio with the ability to offer iGaming operators some of the highest-performing game content in the marketplace through Gameiom’s remote game server (“RGS”). Under the terms of the transaction, AGS has acquired Gameiom for \$5 million in cash and will integrate Gameiom to serve as the launchpad for the Company’s iGaming division, which will become part of its AGS Interactive business segment.

“In assessing RMG providers, AGS felt it was important to pursue a pure content aggregation and distribution platform as opposed to a direct-to-consumer iGaming operation,” said David Lopez, President and CEO of AGS. “Gameiom fits that bill perfectly – their platform enables AGS to distribute our industry-leading game content into many markets, including the U.S, establishing a real-money gaming solution designed to generate revenue for AGS and our partners. Gameiom’s RGS platform is flexible, scalable, robust, and open, capable of delivering hundreds of games and sports-betting integration to operators quickly and reliably. More importantly, Gameiom’s values align with our playbook – they are

passionate, team oriented, aspire to win, and a bit obsessed with gaming, just like us.”

43. On August 2, 2018, PlayAGS announced its second quarter 2018 financial results, reporting a 45 percent increase in total revenue over the prior year period to \$72.8 million. The press release also reported a 144 percent increase in EGM sales, based on quarterly sales of 1058 units. Again, PlayAGS increased its guidance. The press release stated, in relevant part:

Second Quarter Financial Highlights

- Total revenue increased 45% to \$72.8 million, a company record, driven by continued growth of our EGMs in the Class III marketplace, led by demand for our premium Orion Portrait cabinet.
- Recurring revenue grew to \$52.6 million or 26% year-over-year. In addition to the contribution from the EGMs purchased from Rocket Gaming and Table Products purchased from In Bet in the Fall of 2017, the increase was driven by our strong Domestic revenue per day (“RPD”) of \$27.79, up \$1.90 year-over-year.
- EGM equipment sales increased 144% to \$20.2 million, another Company record, due to the sale of 1,058 units, of which approximately 60% and 12% were Orion Portrait and Orion Slant cabinets, respectively.
- Net loss improved to \$5.3 million from \$20.1 million in the prior year, primarily due to increased revenue described above.
- Total Adjusted EBITDA (non-GAAP) increased to \$36.6 million, or 40%, driven by the significant increase in revenue, partially offset by increased adjusted operating expenses of \$3.9 million primarily due to increased headcount in SG&A and R&D.(1)
- Total Adjusted EBITDA margin decreased to 50% in the second quarter 2018 compared to 52% in the prior year driven by several different factors, most notably due to the increased proportion of equipment sales to total revenues.
- SG&A expenses increased \$5.0 million in the second quarter of 2018 primarily due to \$2.3 million in increased professional fees driven by costs associated with the acquisition of online content-aggregator Gameiom as well as costs associated with our previous offerings. Salary and benefit costs increased \$1.8 million due to higher headcount and non-cash stock based compensation expense increased \$0.3 million.
- R&D expenses increased \$0.7 million in the second quarter of 2018 driven by higher salary and benefit costs related to additional headcount.

1 * * *

2 **2018 Outlook**

3 Based on our year-to-date progress and due to our current
 4 momentum, we now expect our total Adjusted EBITDA in 2018 to
 5 be between \$132.0 and \$136.0 million. This is an upward revision
 6 to the guidance we previously released and is based on greater
 7 visibility that we now have for the installation and performance of
 Orion Portrait, Orion Slant, STAX, and other products for the
 remainder of the year, in addition to accelerated efforts to increase
 our footprint in sizable new markets, such as Canada. We maintain
 our capital expenditures range of \$55.0 to \$60.0 million.

8 44. In the earnings release, Defendant Lopez was quoted touting the Company's
 9 record results, including in the EGM Segment, and attributed the increased guidance to
 10 opportunities in the EGM Segment, stating in relevant part:

11 "AGS grew both the top and bottom line by more than 40% in the
 12 second quarter, marking the most successful quarter in our
 13 company's history. Our strong results reflect record highs in our
 14 EGM and Tables Products revenue, average selling prices, revenue
 15 per day, and recurring revenue. We continue to reap the benefits of
 16 our Orion and Bonus Spin product launches, our steady ramp into
 17 key markets like Nevada, California and New Jersey, and strong
 18 performance from both our optimized and new product footprint.

19 In addition to a strong pipeline of new product launches and our
 20 initial entry into markets such as Canada to accelerate our growth,
 21 our recent acquisition of content-aggregator Gameiom creates a
 22 new channel to exploit our industry-leading game content in online
 23 real-money gaming markets. Because of the potential upside from
 24 these exciting opportunities in our EGM business and our strong
 25 first half of the year, we are raising our Adjusted EBITDA
 26 guidance to reflect a new range of \$132 million to \$136 million."

27 45. That same day, the Company filed its quarterly report on Form 10-Q with the
 28 SEC for the period ended June 30, 2018, affirming the previously reported financial results. The
 report also stated that the Company's disclosure controls and procedures were effective.
 Regarding goodwill related to the Gameiom acquisition, the report stated, in relevant part:

29 During the quarter ended June 30, 2018, the Company acquired all
 30 of the equity of Gameiom Technologies Limited (formerly known
 31 as "Gameiom", currently known as "AGS iGaming"). AGS
 32 iGaming is a licensed Gaming aggregator and content provider for
 33 real-money gaming ("RMG") and sportsbetting partners. The
 34 acquisition was accounted for as an acquisition of a business and
 35 the assets acquired and liabilities assumed were measured based on
 36 our preliminary estimates of their fair values at the acquisition
 37 date. The estimated fair values of assets acquired and liabilities
 38 assumed and resulting goodwill are subject to adjustment as we

1 finalize our fair value analysis. The significant items for which a
 2 final fair value has not been determined as of the filing of this
 3 report include the fair value of intangible assets. We expect to
 4 complete our fair value determinations no later than one year from
 5 the acquisition date.

6 We attribute the goodwill acquired to our ability [to] utilize AGS
 7 iGaming's existing RMG platform to distribute our existing EGM
 8 game content into many markets, diversification of our Interactive
 9 segment's product portfolio that now includes a real-money
 10 gaming solution and other strategic benefits. Total consideration
 11 of \$5.0 million included cash paid of \$4.5 million and \$0.5 million
 12 of deferred consideration that is payable within 18 months of the
 13 acquisition date. The consideration was allocated primarily to
 14 goodwill that is not tax deductible for \$3.1 million and intangible
 15 assets of \$2.7 million, which will be amortized over a weighted
 16 average period of approximately 6.6 years.

17 The intangible assets consist primarily of customer relationships
 18 and a technology platform.

19 46. Additionally on August 2, 2018, PlayAGS held an earnings call with analysts and
 20 investors to discuss the Company's second quarter 2018 financial results. On the earnings call,
 21 Defendant Lopez touted that PlayAGS was successfully executing its legacy EGM optimization
 22 strategy, stating in relevant part:

23 We've made good progress with our yield optimization strategy,
 24 upgrading nearly 1,500 of our legacy machines on a trailing 12-
 25 month basis with our latest high-performing products. We are now
 26 starting to see real RPD improvement as the base of upgraded units
 27 continues to grow. As of Q2, approximately \$8.3 million of trailing
 28 12-month recurring revenue came from our optimization efforts in
 both the U.S. and Mexico.

As a result of optimization, growing the recurring footprint with
 new, high-performing product, and the overall health of our poor
 tribal markets, domestic RPD grew to its highest level in years,
 averaging \$27.79 in Q2. This grew \$1.90 from the prior-year
 period, and \$1.07 sequentially.

47. Also on the call, Defendant Akiona attributed the Company's increased domestic
 2 revenue per day ("RPD") to the Company's new product offerings, as well as the execution of its
 3 legacy EGM optimization growth strategy, and specifically noted "strong performance" in
 4 Oklahoma, stating in relevant part:

5 Total RPD for the current quarter also increased by 8.9%, to
 6 \$21.77 cents compared to the second quarter of 2017, driven
 7 primarily by our new product offerings and through the
 8 optimization of our install base with our industry-leading EGMs.

1 Notable was strong performance in certain key markets like
 2 Oklahoma, Texas, Florida, and California, just to name a few.
 3

4 48. On November 8, 2018, PlayAGS announced its third quarter 2018 financial
 5 results, reporting that total revenue had increased 34 percent over the prior year to \$75.5 million.
 6 The earnings release reported that EGM equipment sales had again increased, this time by 82
 7 percent year-over-year, based on quarterly sales of 1,332 units. Yet again, the Company
 8 increased its guidance. The press release stated, in relevant part:
 9

10 **Third Quarter Financial Highlights**

11

- 12 • Total revenue increased 34% to \$75.5 million, a Company
 13 record, driven by continued growth of our EGMs in the Class
 14 III marketplace, including entry into Alberta, Canada as well as
 15 a large sale to a long-standing tribal customer.
- 16 • Recurring revenue grew to \$50.7 million, or 18% year-over-
 17 year. In addition to the contribution from the EGMs purchased
 18 from Rocket Gaming, the increase was driven by our strong
 19 domestic revenue per day (“RPD”) of \$27.14, up \$1.70 year-
 20 over-year as well as increases in Table Products revenue driven
 21 by an increase in Table Product units.
- 22 • EGM equipment sales increased 82% to \$24.7 million, another
 23 Company record, due to the sale of 1,332 units, of which
 24 approximately 24% were sold in Canada and 276 units were
 25 sold to a long-standing tribal customer.
- 26 • Net income improved to \$4.3 million from a net loss of \$4.1
 27 million in the prior year period, primarily due to the increased
 28 revenue described above.

19 * * *

20 **2018 Outlook**

21 Based on our year-to-date progress and due to our current
 22 momentum, we now expect our total Adjusted EBITDA in 2018 to
 23 be between \$134.0 and \$136.0 million. This is an upward revision
 24 to the guidance we previously released and is based on our
 25 progress executing against our many growth initiatives in the first
 26 half of the year and due to our improved visibility for the
 27 remainder of the year.

28 49. Additionally in the earnings release, Defendant Lopez was quoted touting the
 29 Company’s record EGM sales, stating in relevant part:

30 AGS President and Chief Executive Officer David Lopez said, “In
 31 the third quarter, AGS sold 1,332 EGMs, a 58% jump year-over-
 32 year, and a company record. Revenue hit an all-time high of \$75.5
 33 million, demonstrating continued demand for our Orion Portrait

1 cabinet and growing momentum for our new Orion Slant, in
 2 addition to significant progress in Canada, with 24% of our sold
 3 EGMs placed in several Canadian provinces. Our Tables segment
 4 posted its best quarter to date, with our innovative progressives
 5 contributing to a 30% increase in installs year-over-year. AGS is
 6 still very underrepresented in many markets both domestically and
 7 internationally, which presents significant long-term growth
 8 opportunities for the Company due to our industry-leading game
 9 performance, an expanding suite of cabinet options, best-in-class
 R&D, and diversified product offerings.”

10 50. That same day, the Company filed its quarterly report on Form 10-Q with the
 11 SEC for the period ended September 30, 2018, affirming the previously reported financial
 12 results. The report also stated that the Company’s disclosure controls and procedures were
 13 effective.

14 51. Also on November 8, 2018, PlayAGS held an earnings call with analysts and
 15 investors to discuss the Company’s third quarter 2018 financial results. On the call, Defendant
 16 Lopez stated that PlayAGS had continued to penetrate the “healthy” Oklahoma market, stating in
 17 relevant part:

18 So it’s all about going out there and getting to the jurisdictions.
 19 You know what they are, mostly. But we stay focused. And we
 20 look at Oklahoma, and you look at our penetration in Oklahoma,
 21 but we continue to add units in Oklahoma. It continues to be a
 22 healthy market for us. We’re having units in every corner of the
 23 U.S., Canada and Mexico, wherever we know that it’s a strong
 24 lease jurisdiction. So we just stay focused on that. It’s going to be a
 25 huge focus obviously in Q4 and beyond and exactly something that
 when we look at 2019 that we’re going to stay focused on.

26 52. Defendant Lopez additionally informed the market that PlayAGS was making
 27 “good progress” in regards to the Company’s legacy EGM optimization strategy within its
 28 recurring install base, stating in relevant part:

29 When thinking about the recurring install base, it’s important to
 30 think about the quality of our base in addition to its size. So while
 31 we will be up slightly in the recurring units over 2017, it’s with a
 32 better mix of units positively impacting our RPD. This is part of
 33 our ongoing optimization strategy, and we will always look for the
 34 highest return on invested capital for our equipment.

35 We continue to make good progress with this strategy, upgrading
 36 more than 880 of our legacy machines year-to-date. As a result of
 37 optimization, growing the recurring footprint with new high-
 38 performing product and the overall health of our core tribal
 markets, domestic RPD grew by \$1.70 year-over-year, to \$27.14.

1 53. Additionally on the November 8, 2018, earnings call, Defendant Akiona touted
 2 that PlayAGS' domestic RPD had increased \$1.70 year-over-year to \$27.14, due to new EGM
 3 offerings and the optimization of existing EGMs within the Company's install base, including in
 4 the Oklahoma market, stating in relevant part:

5 Domestic RPD for the current quarter increased by \$1.70, to
 6 \$27.14, compared to the third quarter of 2017, driven primarily by
 7 our new product offerings and through the ongoing optimization of
 8 our install base with our industry-leading EGMs. Notable increases
 9 were seen in certain markets like Oklahoma, Texas, Florida,
 California and Washington, to name a few. International RPD for
 the current quarter also increased, by \$0.19, to \$8.52, compared to
 the third quarter of 2017, driven by the optimization of our install
 base.

10 54. In response to analyst questions regarding expansion in the Oklahoma market,
 11 Defendant Lopez further attested to the health of, and upcoming expansion in, the Company's
 12 Oklahoma market, stating in relevant part:

13 So as far as the risk goes, we don't see anything just yet, and I
 14 think it'd be very early in the game to talk about how Arkansas
 15 casinos could risk anything up in Oklahoma. I don't think that we
 16 will see the Oklahoma customer going to Arkansas. And I'd also
 17 say that Oklahoma sort of has some of the finest operators out
 18 there in the country, and they're going to, in the words of our
 19 president, secure their borders, if you will. They're going to: a)
 20 make sure that their players stay in the state and; b) they're going
 21 to continue to draw players from other states because they do what
 22 they do and they do it very well.

23 So I think that – and as far as upside goes, nothing specific, but we
 24 always say modest growth in those jurisdictions, modest growth in
 25 Class II and modest growth in Oklahoma. Now they do have some
 26 projects that are coming online. We haven't sort of published
 27 numbers on what we're going to do in those arenas yet, but they do
 28 have some expansions and some new projects that are coming
 online. And we'll obviously continue to get our fair share, if you
 will, of the Chickasaw market as they expand and as every other
 tribe in Oklahoma expands, as well.

29 55. On March 5, 2019, PlayAGS announced its fourth quarter and full year 2018
 30 financial results, reporting that total revenue had increased 25 percent over the prior year to
 31 \$72.1 million. The earnings release reported that EGM equipment sales had again increased, this
 32 time by 86 percent, based on quarterly sales of 1,159 units. The Company also gave adjusted
 33

1 EBITDA guidance for 2019 in the range of \$160.0 to \$164.0 million. The press release stated, in
 2 relevant part:

3 **Fourth Quarter 2018 Financial Highlights**

- 4 • Total revenue increased 25% to \$72.1 million, driven by
 continued growth in our EGM segment in the Class III
 marketplace, primarily in early-entry markets such as Ontario,
 Mississippi and Nevada as well as continued penetration into
 ramping markets such as California and Florida.
- 5 • EGM equipment sales increased 86% to \$23.2 million, due to
 the sale of 1,159 units, of which nearly 60% were sold into
 early-entry markets.
- 6 • Gaming operations revenue, or recurring revenue, grew to
 \$48.9 million, or 8% year-over-year, driven by EGMS
 purchased from Rocket Gaming, increased domestic revenue
 per day (“RPD”) of \$26.41, growth and performance of our
 international installed base, and an increase in Table Products
 revenue.
- 7 • Net loss of \$10.3 million increased year-over-year from a net
 loss of \$8.5 million. Fourth quarter 2018 net loss includes a
 non-cash, pre-tax impairment of goodwill of \$4.8 million
 related to our social gaming business within our Interactive
 Social reporting unit.
- 8 • This goodwill related to our acquisition of RocketPlay in 2015.
 The impairment charge was recorded within write downs and
 other charges in our consolidated statements of operations and
 comprehensive loss.
- 9 • Total Adjusted EBITDA (non-GAAP)(2) increased to \$31.5
 million, or 19%, driven by the significant increase in revenue,
 partially offset by increased operating expenses primarily due
 to headcount related costs in SG&A and R&D. Included in that
 amount was approximately \$1.0 million of operating costs
 from our real-money gaming (“RMG”) content- aggregator
 Gameiom.

10 * * *

11 **2019 Outlook**

12 We expect to generate total Adjusted EBITDA(4) of \$160.0 -
 13 \$164.0 million in 2019, representing growth of approximately 17%
 14 - 20% compared to 2018.

15 We further expect 2019 capital expenditures to be in the range of
 16 \$65.0 - \$69.0 million, compared to \$66.2 million in 2018,
 17 reflecting an expectation for a continued increase in our installed
 18 base in both existing and new markets as well as our ongoing yield
 19 optimization initiative, which includes units recently purchased
 20 from Integrity.

1 56. Additionally in the earnings release, Defendant Lopez was quoted touting the
 2 Company's rapid growth in its first year as a public company, specifically highlighting growth in
 3 the EGM Segment, stating in relevant part:

4 “*We ended our first year as a public company with a solid fourth
 5 quarter and 35% growth in annual revenue,” said Chief Executive
 6 Officer David Lopez. “Our continued top line growth, increased
 7 operating cash, and free cash flow generation reflects the industry-
 8 leading performance of our products and AGS’ unique position
 9 given how underrepresented we are in the market. These two
 10 factors contributed to our phenomenal growth in electronic gaming
 11 machines (“EGMs”), ending the year with more than 4,300 sold
 12 units, a 71% increase from fiscal 2017. We kicked off 2019 with
 13 the close of our acquisition of Integrity Gaming Corp., which
 14 bolsters our recurring revenue footprint and provides long-term
 15 optimization opportunities. With new product and content
 16 launches, further penetration of both new and early-entry markets,
 17 and international expansion, AGS is positioned for another high-
 growth year in 2019.*”

12 57. That same day, PlayAGS filed its annual report on Form 10-K with the SEC for
 13 the period ended December 31, 2018 (the “2018 10-K”), affirming the previously reported
 14 financial results, which was signed by defendants Lopez and Akiona. The report stated that the
 15 Company’s disclosure controls and procedures were effective. It also stated “management has
 16 concluded that our system of internal control over financial reporting, as of December 31, 2018,
 17 is effective.”

18 58. Finally, on March 5, 2019, PlayAGS held an earnings call with analysts and
 19 investors to discuss the Company’s fourth quarter 2018 financial results. On the call, Defendant
 20 Akiona attributed the increase in the Company’s EGM install base primarily to its Oklahoma
 21 market, stating in relevant part:

22 Our domestic EGM installed base grew by over 200 units year-
 23 over-year despite the voluntary removal of 500 machines in Texas
 24 earlier in the year and the reduction of 420 VLT units in Illinois
 25 through an end of lease buyout by a customer. As David mentioned
 26 earlier, these units were not counted in our sold unit count.
 Excluding the end of lease buyout of the Illinois VLT units in the
 fourth quarter, we would have had net placements of 650 recurring
 units sequentially, with the majority of those units being placed in
 Oklahoma.

27 59. Defendant Akiona also touted that the Company’s legacy EGM optimization
 28 strategy was driving domestic RPD growth, stating in relevant part: “Domestic RPD for the

1 current quarter increased by \$0.53 to \$26.41 compared to the fourth quarter of 2017, driven
2 primarily by our new product offerings through the ongoing optimization of our installed base
3 with our leading EGMs.”

4 60. Additionally on the call, Defendant Lopez informed investors that PlayAGS was
5 well-positioned to further penetrate its existing markets, including Oklahoma, stating in relevant
6 part:

The second initiative is the ramping of Orion Slant and our STAX Table Progressive, two relatively new products that are seeing strong momentum as we start 2019. We highlighted the progress both products made in the fourth quarter, exiting the year strong to prepare for an even better 2019. With 25 titles planned for launch on Orion Slant throughout the year and a growing number of compelling case studies that prove STAX drive increased revenue for customers, we believe both products will be significant needle movers in their respective business segments this year. The third initiative is new product introductions, and we have several that we're excited about this year. We saw the first unit of Dex S card shuffler go into a select couple of properties on trial in December. The feedback has been encouraging, consistent and informative in this introductory stage. We're currently in a handful of properties and right where we want to be with the rollout, having just completed some enhancements to prepare us for a broader launch. By Q2, we believe we'll be in position to ramp up the rollout to several jurisdictions, including California, Florida, Oklahoma, Nevada, Michigan and New Mexico to start.

* * *

18 The fourth initiative is penetration into new and early-entry
19 markets. Slide 12 shows the many markets where AGS remains
20 well under our 5% market share goal. We remain focused on
21 working to secure some new licenses this year, but we believe that
the bigger opportunity is placing incremental EGM and table units
into new markets like Canada, Pennsylvania and Ohio as well as
further growth in Oklahoma, California and Wisconsin to name a
few.

22 61. Finally, in response to analyst questions regarding the Company's ability to
23 further grow its recurring revenues, Defendant Lopez specifically called out Oklahoma as a
24 "strong jurisdiction" to generate recurring revenues in 2019, stating in relevant part:

26 Yes. So I think that when you look at recurring -- our recurring
27 footprint, and I'll speak to that number sort of globally. When
28 we're expanding in 2019, obviously, it's going to be sort of like
equal opportunity sort of like placements for leases. But again,
we're going to be right back in our very strong jurisdictions like
Oklahoma. We're going to see real growth in Mexico again. We're
obviously going to see going to see some international or what I'd

1 say is true international growth because I sort of look at Mexico as
 2 almost domestic, but we'll see some true international growth with
 3 leased units in the Philippines. So when you put those altogether,
 4 we've got real opportunities for recurring revenue growth in 2019
 5 that, I think, that will shape up very nicely versus what we did
 6 even in 2018. But I think it's the usual suspect that can -- when
 7 you look at the domestic opportunities being led again -- once
 8 again by the state of Oklahoma.

9
 10 62. On May 8, 2019, PlayAGS announced its first quarter 2019 financial results,
 11 reporting quarterly revenues of \$73.0 million, up 13 percent year-over-year. The earnings
 12 release reported that EGM equipment sales had again increased by 33 percent, based on quarterly
 13 sales of 1,024 units. Finally, the Company reiterated its previous 2019 guidance. The press
 14 release stated, in relevant part
 15

16 **First Quarter 2019 Financial Highlights**

17

- 18 • Total revenue increased 13% to \$73.0 million, driven by
 19 continued growth in our EGM segment, primarily sold units in
 20 early-entry markets such as Michigan, Saskatchewan,
 21 Pennsylvania and Massachusetts, as well as continued
 22 penetration into ramping markets such as Florida and
 23 California in addition to the contribution of leased EGMs
 24 acquired from Integrity Gaming Corp. ("Integrity") in February
 25 2019.
- 26 • EGM equipment sales revenue increased 33% to \$20.2 million,
 27 driven by the sale of 1,024 units, of which nearly 55% were
 28 sold into early-entry markets.
- 29 • Record gaming operations revenue, or recurring revenue, grew
 30 to \$52.9 million, or 7% year-over-year, driven by the
 31 acquisition of Integrity, growth and performance of our
 32 international installed base, and an increase in Table Products
 33 revenue.
- 34 • Net loss attributable to PlayAGS, Inc. of \$0.1 million improved
 35 year-over- year from a net loss of \$9.5 million.
- 36 • Total Adjusted EBITDA (non-GAAP)(1) increased to \$36.3
 37 million, or 5%, driven by the increase in revenue, offset by
 38 increased adjusted operating expenses, primarily due to
 39 headcount related costs in SG&A and R&D as well as an
 40 additional \$1.0 million of operating costs from iGaming.

41 * * *

42 **2019 Outlook**

43 Based on our year to date progress, we continue to expect to
 44 generate total adjusted EBITDA of \$160 - \$164 million in 2019,
 45 representing growth of approximately 17% - 20% compared to the

1 prior year period. We also continue to expect 2019 capital
 2 expenditures to be in the range of \$64 - \$69 million, compared to
 3 \$66.6 million in 2018, reflecting an expectation for a continued
 4 increase in our installed base in both existing and new markets as
 5 well as our ongoing yield optimization initiative, including units
 6 recently purchased from Integrity.

7 63. Additionally in the earnings release, Defendant Lopez was quoted touting the
 8 Company's EGM growth, stating in relevant part:

9 "I'm pleased to report another solid quarter of growth for AGS,
 10 with total revenue of \$73 million up 13% year-over-year, driven by
 11 double-digit gains in EGMs and Tables," said Chief Executive
 12 Officer David Lopez. "Sold EGM units grew 22% year-over-year
 13 and our Tables Products segment reported its strongest quarter to
 date, driven by our award-winning progressive platforms. Our
 EGM recurring revenue installed base grew 14% year-over-year to
 27,308 units, driven by the inclusion of 2,500 EGMs from the
 Integrity acquisition which we closed in February of this year.
 With numerous levers to build momentum - including strategic
 investments in R&D to continue building a strong, diversified and
 expanded product portfolio, as well as many new and
 underpenetrated domestic and international markets - AGS is well-
 positioned for continued long-term, meaningful growth."

14 64. The same day, the Company filed its quarterly report on Form 10-Q with the SEC
 15 for the period ended March 31, 2019, affirming the previously reported financial results. The
 16 report also stated that the Company's disclosure controls and procedures were effective.

17 65. Also on May 8, 2019, PlayAGS held an earnings call with analysts and investors
 18 to discuss the Company's first quarter 2019 financial results. On the call, Defendant Lopez
 19 touted the growth prospects for the Company's Class II EGM footprint in its Oklahoma market,
 20 stating in relevant part:

21 Just last month, we announced that we have renewed our contract
 22 with Chickasaw Nation, securing our installed base of
 23 approximately 3,200 recurring revenue games across their 22
 24 casinos in Oklahoma. The deal represents a significantly larger
 25 installed base of Class II games than what -- than what our
 26 previous contract covered, as we have added around 700 units
 within that time frame. Because of our strong relationship with the
 tribe, we are pleased to have signed this agreement ahead of the
 contract expiration date. In fact, we are hosting our fourth annual
 GameON Customer Summit at their world-class Windstar property
 in Oklahoma, which boasts the largest slot floor in the world.

27 66. The above statements identified in ¶¶ 37-65 were materially false and/or
 28 misleading, and failed to disclose material adverse facts about the Company's business,

1 operations, and prospects. Specifically, the Exchange Act Defendants failed to disclose to
 2 investors that: (i) PlayAGS' growth strategies were failing; (ii) the Company was experiencing
 3 major execution issues in Oklahoma; (iii) therefore, the Company's purported competitive
 4 strengths were not reasonably likely to lead to increased revenue; (iv) the Company's internal
 5 controls over financial reporting were not effective; and (v) as a result of the foregoing,
 6 Defendants' positive statements about the Company's business, operations, and prospects were
 7 materially misleading and/or lacked a reasonable basis.

8 67. Moreover, under Item 303 of SEC Regulation S-K, 17 C.F.R. § 229.303 ("Item
 9 303"), Defendants Lopez and Akiona were required to "[d]escribe any known trends or
 10 uncertainties that have had or that the registrant reasonably expects will have a material
 11 favorable or unfavorable impact on the sales or revenues or income from continuing operations,"
 12 in PlayAGS' reporting with the SEC. Defendant Lopez and Akiona's failure to disclose adverse
 13 material trends in the Company's quarterly and annual reports violated Item 303, because these
 14 undisclosed facts were known to Defendants and would have an unfavorable impact on the
 15 Company's financial results.

16 **C. The Truth Is Revealed**

17 68. The true state of PlayAGS' financial well-being, growth prospects, and internal
 18 controls over financial reporting were revealed to investors on August 7, 2019, when the
 19 Company reported its second quarter 2019 results. On that date, PlayAGS shocked the market
 20 by reporting a net loss of \$7.6 million, or negative \$0.21 earnings per share (versus expectations
 21 of positive \$0.14 per share). This loss included an impairment of goodwill of \$3.5 million and
 22 an impairment of intangible assets of \$1.3 million related to the acquired AGS iGaming business
 23 within its Interactive segment. The Company additionally reported disappointing quarterly
 24 revenues of \$74.5 million (or growth of 2 percent year-over-year), and adjusted EBITDA of
 25 \$35.7 million (down 2 percent year-over-year). PlayAGS also lowered its full-year 2019
 26 adjusted EBITDA guidance to a range of \$145 million to \$150 million (or growth of 6 to 10
 27

1 percent year-over-year), down from its previous guidance for a range of \$160 million to \$164
 2 million.

3 69. PlayAGS attributed the weak results to product underperformance at three
 4 Oklahoma properties and problems with its placement of 800 incremental EGMs into the
 5 Oklahoma market over the past year, as well as the iGaming impairment charges and an increase
 6 in research and development operating expenses as part of its strategic growth initiatives.

7 70. That same day, on an earnings call with analysts and investors, Defendant Lopez
 8 provided additional detail on these issues, stating:

9 [We] are experiencing some challenges in Oklahoma, where we
 10 have our largest base of recurring revenue, EGM.

11 We mentioned several factors for decreased [revenue per day]
 12 earlier and one of the issues we are actively working to fix is
 13 product underperformance. I'll give you some color on what's
 14 driving this. *Over the past year*, we've grown our Oklahoma
 15 footprint with 800 incremental units and separately optimized
 16 numerous existing units. Some of the underperformance is a result
 17 of going too hard and fast into the market with certain products.
 18 We also went too deep into our portfolio of titles, where we should
 19 have focused on our most successful game themes.

20 (emphasis added).

21 71. In reaction to these disclosures, analysts expressed their concerns and
 22 immediately downgraded PlayAGS stock. The news was such a surprise to Bank of America
 23 Merrill Lynch that it downgraded its rating on PlayAGS stock by two levels (from "Buy" to
 24 "Underperform") and slashed its PlayAGS price target from \$30 to \$14 on concerns of faltering
 25 growth.

26 72. On this news, the Company's share price fell \$8.99, or nearly 52 percent, to close
 27 at \$8.31 per share on August 8, 2019, on unusually heavy trading volume.

28 V. UNDISCLOSED ADVERSE FACTS

29 73. At all relevant times, the market for PlayAGS common stock was open, well-
 30 developed and efficient. As a result of these materially false and/or misleading statements,
 31 and/or failures to disclose, PlayAGS common stock traded at artificially inflated prices during
 32 the Class Period. Plaintiff and other members of the Class that purchased or otherwise acquired
 33

1 the Company's common stock relying upon the integrity of the market price of the Company's
 2 common stock and market information relating to PlayAGS, and have been damaged thereby.

3 74. During the Class Period, the Exchange Act Defendants materially misled the
 4 investing public, thereby inflating the price of PlayAGS common stock, by publicly issuing false
 5 and/or misleading statements and/or omitting material facts necessary to make Defendants'
 6 statements, as set forth herein, not false and/or misleading. These statements and omissions were
 7 materially false and/or misleading in that they failed to disclose material adverse information
 8 and/or misrepresented the truth about the Company's business, operations, and prospects as
 9 alleged herein.

10 75. At all relevant times, the material misrepresentations and omissions particularized
 11 in this Complaint directly or proximately caused, or were a substantial contributing cause, of the
 12 damages sustained by Plaintiff and other members of the Class. As described herein, during the
 13 Class Period, the Exchange Act Defendants made, or caused to be made, a series of materially
 14 false and/or misleading statements about PlayAGS's financial well-being and prospects. These
 15 material misstatements and/or omissions had the cause and effect of creating in the market an
 16 unrealistically positive assessment of the Company and its financial well-being and prospects,
 17 thus causing the Company's common stock to be overvalued and artificially inflated at all
 18 relevant times. The Exchange Act Defendants' materially false and/or misleading statements
 19 during the Class Period resulted in Plaintiff and other members of the Class purchasing or
 20 otherwise acquiring the Company's common stock at artificially inflated prices, thus causing the
 21 damages complained of herein.

22 **VI. ADDITIONAL SCIENTER ALLEGATIONS**

23 76. During the Class Period, as alleged herein, the Individual Exchange Act
 24 Defendants acted with scienter in that the Individual Exchange Act Defendants knew or were
 25 reckless as to whether the public documents and statements issued or disseminated in the name
 26 of the Company during the Class Period were materially false and misleading; knew or were
 27 reckless as to whether such statements or documents would be issued or disseminated to the
 28 investing public; and knowingly and substantially participated or acquiesced in the issuance or

1 dissemination of such statements or documents as primary violations of the federal securities
 2 laws.

3 77. The Individual Exchange Act Defendants permitted PlayAGS to release these
 4 false and misleading statements and failed to file the necessary corrective disclosures, which
 5 artificially inflated the value of the Company's common stock.

6 78. As set forth herein, the Individual Exchange Act Defendants, by virtue of their
 7 receipt of information reflecting the true facts regarding PlayAGS, their control over, receipt,
 8 and/or modification of the Company's allegedly materially misleading statements and omissions,
 9 and/or their positions with the Company that made them privy to confidential information
 10 concerning PlayAGS, participated in the fraudulent scheme in violation of the Exchange Act as
 11 alleged herein.

12 79. The Individual Exchange Act Defendants are liable as participants in a fraudulent
 13 scheme and course of conduct that operated as a fraud or deceit on those who purchased
 14 PlayAGS common stock by disseminating materially false and misleading statements and/or
 15 concealing material adverse facts. The scheme deceived the investing public regarding
 16 PlayAGS's business, operations, and management and the intrinsic value of PlayAGS common
 17 stock and caused Plaintiff and members of the Class to purchase PlayAGS common stock at
 18 artificially inflated prices.

19 **VII. LOSS CAUSATION/ECONOMIC LOSS**

20 80. The Exchange Act Defendants' wrongful conduct, as alleged herein, directly and
 21 proximately caused the economic loss suffered by Plaintiff and the Class.

22 81. During the Class Period, Plaintiff and the Class purchased or otherwise acquired
 23 PlayAGS common stock at artificially inflated prices and were damaged thereby. The price of
 24 the Company's common stock significantly declined when the misrepresentations made to the
 25 market, and/or the information alleged herein to have been concealed from the market, and/or the
 26 effects thereof, were revealed, causing investors' losses.

27
 28

1 **VIII. APPLICABILITY OF PRESUMPTION OF RELIANCE: FRAUD ON THE**
 2 **MARKET**

3 82. Plaintiff is entitled to rely upon the presumption of reliance established by the
 4 fraud-on-the-market doctrine in that, among other things:

5 83. The Exchange Act Defendants made public misrepresentations or failed to
 6 disclose material facts during the Class Period;

7 (a) the omissions and misrepresentations were material;
 8 (b) the Company's common stock traded in an efficient market;
 9 (c) the misrepresentations alleged would tend to induce a reasonable investor
 10 to misjudge the value of the Company's common stock; and
 11 (d) Plaintiff and other members of the Class transacted in PlayAGS Common
 12 Stock between the time the Exchange Act Defendants misrepresented or failed to disclose
 13 material facts and the time the true facts were disclosed, without knowledge of the
 14 misrepresented or omitted facts.

15 84. At all relevant times, the markets for PlayAGS Common Stock were efficient for
 16 the following reasons, among others:

17 (a) as a regulated issuer, PlayAGS filed periodic public reports with the SEC;
 18 (b) PlayAGS regularly communicated with public investors via established
 19 market communication mechanisms, including through regular disseminations of press releases
 20 on the major news wire services and through other wide-ranging public disclosures, such as
 21 communications with the financial press, securities analysts, and other similar reporting services;
 22 (c) PlayAGS was followed by several securities analysts employed by major
 23 brokerage firm(s) who wrote reports that were distributed to the sales force and certain customers
 24 of their respective brokerage firm(s) and that were publicly available and entered the public
 25 marketplace; and
 26 (d) throughout the Class Period, PlayAGS Common Stock was actively traded
 27 in an efficient market, namely the NYSE, under the ticker symbol "AGS."

1 85. As a result of the foregoing, the market for PlayAGS Common Stock promptly
 2 digested current information regarding PlayAGS from all publicly available sources and
 3 reflected such information in PlayAGS's stock price. Under these circumstances, all those who
 4 purchased or otherwise acquired PlayAGS common stock during the Class Period suffered
 5 similar injury through sales of PlayAGS common stock at artificially inflated prices and the
 6 presumption of reliance applies.

7 86. Alternatively, a Class-wide presumption of reliance is also appropriate in this
 8 action under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406
 9 U.S. 128 (1972), because the Class' claims are, in large part, grounded on the Exchange Act
 10 Defendants' material misstatements and/or omissions. Because this action involves the
 11 Exchange Act Defendants' failure to disclose material adverse information regarding the
 12 Company's business operations and financial prospects—information that the Exchange Act
 13 Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to
 14 recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable
 15 investor might have considered them important in making investment decisions. Given the
 16 importance of the Class Period material misstatements and omissions set forth above, that
 17 requirement is satisfied here.

18 **IX. NO SAFE HARBOR**

19 87. The statutory safe harbor provided for forward-looking statements under certain
 20 circumstances does not apply to any of the allegedly false statements pleaded in this Complaint.
 21 The statements alleged to be false and misleading herein all relate to then-existing facts and
 22 conditions. In addition, to the extent certain of the statements alleged to be false may be
 23 characterized as forward looking, they were not identified as "forward-looking statements" when
 24 made and there were no meaningful cautionary statements identifying important factors that
 25 could cause actual results to differ materially from those in the purportedly forward-looking
 26 statements. In the alternative, to the extent that the statutory safe harbor is determined to apply
 27 to any forward-looking statements pleaded herein, the Exchange Act Defendants are liable for
 28 those false forward-looking statements because at the time each of those forward-looking

1 statements were made, the speaker had actual knowledge that the forward-looking statement was
 2 materially false or misleading, and/or the forward-looking statement was authorized or approved
 3 by an executive officer of PlayAGS who knew that the statement was false when made.

4 **COUNT I**

5 **For Violation of Section 10(b) of the Exchange Act
 and Rule 10b-5 Against the Exchange Act Defendants**

6 88. As previously stated, the claims set forth herein pursuant to Sections 10(b) and
 7 20(a) of the Exchange Act, and SEC Rule 10b-5 promulgated thereunder, are based on knowing
 8 or reckless misconduct by the Exchange Act Defendants. These claims are independent of the
 9 Securities Act Claims asserted herein, and the allegations pertaining to the claims under the
 10 Exchange Act and SEC Rule 10b-5 do not apply in any way to the other claims for relief under
 11 the Securities Act, as asserted herein.

12 89. Plaintiff repeats and realleges each and every allegation contained in paragraphs
 13 ¶¶ 26-87 as if fully set forth herein.

14 90. During the Class Period, the Exchange Act Defendants disseminated or approved
 15 the false statements specified above, which they knew or recklessly disregarded were misleading
 16 in that they contained misrepresentations and failed to disclose material facts necessary in order
 17 to make the statements made, in light of the circumstances under which they were made, not
 18 misleading.

19 91. The Exchange Act Defendants violated Section 10(b) of the Exchange Act and
 20 Rule 10b-5 in that they:

- 21 (a) Employed devices, schemes, and artifices to defraud;
- 22 (b) Made untrue statements of material facts or omitted to state material facts
 23 necessary in order to make the statements made, in light of the circumstances under which they
 24 were made, not misleading; or
- 25 (c) Engaged in acts, practices, and a course of business that operated as a
 26 fraud or deceit upon Plaintiff and others similarly situated in connection with their transactions in
 27 PlayAGS common stock during the Class Period.

92. Plaintiff and the Class have suffered damages in that, as a result of the Exchange Act Defendants' wrongful conduct alleged herein, they purchased or otherwise acquired PlayAGS common stock at artificially inflated prices. Plaintiff and the Class would not have purchased PlayAGS common stock at the prices they did, or at all, if they had been aware that the market prices had been artificially and falsely inflated by the Exchange Act Defendants' misleading statements.

93. As a direct and proximate result of the Exchange Act Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases or other acquisitions of PlayAGS common stock during the Class Period.

COUNT II

**For Violation of Section 20(a) of the Exchange Act
Against the Individual Exchange Act Defendants, Apollo, and Apollo Group**

94. Plaintiff repeats and realleges each and every allegation contained in paragraphs ¶¶ 26-95 as if fully set forth herein.

95. The Individual Exchange Act Defendants, Apollo, and Apollo Group acted as controlling persons of PlayAGS within the meaning of Section 20(a) of the Exchange Act. By virtue of their positions and their power to control public statements about PlayAGS, the Individual Exchange Act Defendants, Apollo, and Apollo Group, as culpability participants, had the power and ability to control the actions of the Company and its employees. By reason of such conduct, the Individual Exchange Act Defendants, Apollo, and Apollo Group are liable pursuant to Section 20(a) of the Exchange Act.

X. SUBSTANTIVE ALLEGATIONS FOR CLAIMS UNDER THE SECURITIES ACT

96. The claims set forth herein pursuant to Sections 11, 12(a)(2), and 15 of the Securities Act are brought on behalf of persons or entities who purchased or otherwise acquired PlayAGS common stock pursuant and/or traceable to the PlayAGS Offering Materials. The Securities Act claims are based solely on strict liability and negligence, and are not based on any knowing or reckless conduct by or on behalf of any defendant—*i.e.*, they do not allege, and do

1 not sound in, fraud—and Plaintiff specifically disclaims any allegations of fraud, scienter, or
 2 recklessness in these non-fraud claims.

3 **A. Parties**

4 97. Plaintiff, as set forth in the accompanying certification, incorporated by
 5 reference herein, purchased or otherwise acquired PlayAGS stock on and/or traceable to the
 6 August 2018 SPO, and was damaged thereby.

7 98. Defendant PlayAGS is incorporated under the laws of Nevada with its principal
 8 executive offices located in Las Vegas, Nevada.

9 99. Defendant Lopez, at all relevant times, was PlayAGS' CEO, as well as a Director
 10 of the Company. Defendants Lopez signed the Shelf Registration Statement issued in
 11 connection with the PlayAGS Offerings which were all filed with the SEC.

12 100. Defendant Akiona, at all relevant times, was the CFO of the Company.
 13 Defendant Akiona signed the Shelf Registration Statement issued in connection with the
 14 PlayAGS Offerings, which were all filed with the SEC.

15 101. Defendant David Sambur (“Sambur”), at all relevant times, was a Director of the
 16 Company and Chairman of its Board. Defendant Sambur signed the Shelf Registration
 17 Statement issued in connection with the PlayAGS Offerings, which were all filed with the SEC.

18 102. Defendant Daniel Cohen (“Cohen”), at all relevant times, was a Director of the
 19 Company and signed the Shelf Registration Statement issued in connection with the PlayAGS
 20 Offerings, which were all filed with the SEC.

21 103. Defendant Eric Press (“Press”), at all relevant times, was a Director of the
 22 Company and signed the Shelf Registration Statement issued in connection with the PlayAGS
 23 Offerings, which were all filed with the SEC.

24 104. Defendant Yvette Landau (“Landau”), at all relevant times, was a Director of the
 25 Company and signed the Shelf Registration Statement issued in connection with the PlayAGS
 26 Offerings, which were all filed with the SEC.

27

28

1 105. Defendant Adam Chibib (“Chibib”), at all relevant times, was a Director of the
 2 Company and signed the Shelf Registration Statement issued in connection with the PlayAGS
 3 Offerings, which were all filed with the SEC.

4 106. Defendant Geoff Freeman (“Freeman”) was a Director of the Company at the
 5 time of the March 2019 SPO.

6 107. For the purposes of the Securities Act claims alleged herein, Defendants Lopez,
 7 Akiona, Sambur, Cohen, Press, Landau, Chibib, and Freeman may hereafter be referred to at
 8 times as the “Individual Securities Act Defendants.” As directors and/or executive officers of
 9 the Company, the Individual Securities Act Defendants participated in the solicitation and sale of
 10 PlayAGS shares to investors in the PlayAGS Offerings for their own benefit and/or the benefit of
 11 PlayAGS and Apollo Group.

12 108. Defendant Credit Suisse Securities (USA) LLC (“Credit Suisse”) served as an
 13 underwriter for the August 2018 SPO.

14 109. Defendant Deutsche Bank Securities Inc. (“Deutsche”) served as an underwriter
 15 for the August 2018 SPO.

16 110. Defendant Jefferies LLC (“Jefferies”) served as an underwriter for the August
 17 2018 SPO and March 2019 SPO.

18 111. Defendant Macquarie Capital (USA) Inc. (“Macquarie”) served as an underwriter
 19 for the August 2018 SPO.

20 112. Defendant Merrill Lynch, Pierce, Fenner & Smith Incorporated (“Merrill Lynch”)
 21 served as an underwriter for the August 2018 SPO.

22 113. Defendant Citigroup Global Markets Inc. (“Citigroup”) served as an underwriter
 23 for the August 2018 SPO.

24 114. Defendant Stifel, Nicolaus & Company, Incorporated (“Stifel”) served as an
 25 underwriter for the August 2018 SPO.

26 115. Defendant SunTrust Robinson Humphrey, Inc. (“SunTrust”) served as an
 27 underwriter for the August 2018 SPO.

1 116. Defendant Nomura Securities International, Inc. (“Nomura”) served as an
 2 underwriter for the August 2018 SPO.

3 117. Defendant Roth Capital Partners, LLC (“Roth Capital”) served as an underwriter
 4 for the August 2018 SPO.

5 118. Defendant Union Gaming Securities LLC (“Union Gaming”) served as an
 6 underwriter for the August 2018 SPO.

7 119. Defendant The Williams Capital Group, L.P. (“Williams”) served as an
 8 underwriter for the August 2018 SPO.

9 120. Defendant Apollo Global Securities, LLC (“Apollo Global Securities”), an
 10 affiliate of Apollo, served as an underwriter for the August 2018 SPO.

11 121. Defendant Morgan Stanley & Co. LLC (“Morgan Stanley”) served as an
 12 underwriter for the March 2019 SPO.

13 122. For the purposes of the Securities Act claims alleged herein, Credit Suisse,
 14 Deutsche, Jefferies, Macquarie, Merrill Lynch, Citigroup, Stifel, SunTrust, Nomura, Roth
 15 Capital, Union Gaming, Williams, Apollo Global Securities, and Morgan Stanley may hereafter
 16 be referred to at times as the “Underwriter Defendants.”

17 123. Defendant Apollo, through Apollo Group, acquired PlayAGS in 2013. At the
 18 start of the Class Period, Apollo beneficially held over 50 percent of the Company’s common
 19 stock.

20 124. Defendant Apollo Gaming, as part of Apollo Group, acquired PlayAGS in 2013.
 21 At the start of the Class Period, Apollo Gaming held over 50 percent of the Company’s common
 22 stock.

23 125. Defendant Apollo Investment, as part of Apollo Group, acquired PlayAGS in
 24 2013. Apollo Investment is a member of Apollo Gaming GP, the general partner of Apollo
 25 Gaming. At the start of the Class Period, Apollo Investment beneficially held over 50 percent of
 26 the Company’s common stock.

27 126. Defendant VoteCo, as part of Apollo Group, acquired PlayAGS in 2013. At the
 28 start of the Class Period, VoteCo beneficially held over 50 percent of the Company’s common

1 stock pursuant to an irrevocable proxy granting it sole voting and sole dispositive power with
 2 respect to the shares held by Apollo Gaming. VoteCo is owned and controlled by Apollo
 3 affiliates.

4 127. For the purposes of the Securities Act claims alleged herein, Defendants
 5 PlayAGS, the Individual Securities Act Defendants, the Underwriter Defendants, Apollo, and
 6 Apollo Group, may hereafter be referred to at times as the “Securities Act Defendants.”

7 **B. False and Misleading Statements in the August 2018 SPO Documents**

8 128. On August 6, 2018, PlayAGS filed the Shelf Registration Statement with the SEC
 9 on Form S-3, which was declared effective by the SEC on August 8, 2018. Pursuant to the Shelf
 10 Registration Statement, the Company registered for resale, on behalf of Apollo Gaming,
 11 18,970,161 shares of common stock, for an offering price of up to \$1 billion, which shares were
 12 permitted to be sold on a rolling basis. The Shelf Registration Statement forms part of the
 13 August 2018 SPO Documents.

14 129. Pursuant to the Shelf Registration Statement, on August 10, 2018, the Company
 15 filed a prospectus supplement on Form 424B1 with the SEC, which together with the Shelf
 16 Registration Statement, forms part of the August 2018 SPO Materials. In the August 2018 SPO,
 17 PlayAGS, on behalf of Apollo Gaming, registered for resale up to an aggregate of 6,325,000
 18 shares of its common stock, including the underwriter allotment of 825,000 shares, at the public
 19 offering price of \$29.25 per share. Net of underwriting discounts and commissions, the August
 20 2018 SPO was valued at \$154,037,812.50. Directly prior to the August 2018 SPO, Apollo and
 21 Apollo Group beneficially held approximately 52 percent of PlayAGS common stock, and
 22 beneficially held approximately 34 percent following its completion.

23 130. The August 2018 Documents touted the Company’s competitive strengths, stating
 24 in relevant part:

25 ***High-Margin, Recurring Revenue Model with Attractive Payback
 26 Periods on Newly Deployed Capital***

27 Approximately 76% of our revenue in the LTM period was derived
 28 from products that we leased to our customers and recurring
 revenue from our Interactive gaming operations. This strong base
 of recurring, contracted, high-margin revenue generated a 53%
 EGM adjusted EBITDA margin during the LTM period, which

1 reflects the strong performance and longevity of our game titles
 2 and long-term relationships with our key customers. The cash flow
 3 generated from our recurring revenue sources has provided us with
 4 a stable source of capital to grow our footprint both domestically
 5 and internationally. Given the high-margin, recurring-revenue
 6 nature of our new EGMs, we benefit from payback periods on our
 7 leased units of only approximately 12 months for our core units
 8 and approximately 8 months for our premium units.

9

10 ***Best-in-Class R&D Teams that Produce Industry-Leading***
 11 ***Products***

12 Our R&D teams have demonstrated industry leadership by creating
 13 several top-performing titles and innovative hardware designs,
 14 such as our newly-introduced premium cabinet, Orion Slant, which
 15 features a unique slanted top that has a more comfortable
 16 ergonomic design for players. The innovative nature of our
 17 products has, in part, led to approximately 84% of our customer
 18 base electing to purchase at least one of our recently-released
 19 ICON or Orion cabinets. As reflected in the charts below, our
 20 casino-owned EGMs outperform those from all other suppliers,
 21 generating win per day 1.7 times higher than the house average.
 22 Our premium leased games were the second-best across the
 23 industry, delivering win per day that was 2.2 times higher than the
 24 average of the casino floors where our machines are placed.

25 131. The August 2018 SPO Documents further touted the Company's growth
 26 strategies, including the optimization of its legacy EGMs and the placement of Class II EGMs in
 27 the Company's existing markets, stating in relevant part:

28

17 ***Optimize Yield Across our Existing Footprint***

18 We believe there is a significant opportunity to optimize the older
 19 EGMs in our existing installed base with newer, more profitable
 20 cabinets. By improving the performance of our installed base, we
 21 will generate incremental EGM adjusted EBITDA since our
 22 participation model enables us to share in the profitability of the
 23 EGMs that we place in our customers' gaming facilities. We
 24 currently have an installed base of approximately 3,200 older
 25 cabinets that we believe, over time, can be upgraded with our
 26 newer cabinets to generate higher win per day. Since 2016, we
 27 have optimized over 3,000 of our cabinets, which has led to
 28 approximately \$8.3 million of incremental revenue, approximately
 100% of which flows to EGM adjusted EBITDA. A specific
 example of this took place at the WinStar World Casino and Resort
 in Oklahoma, in which we optimized 28 underperforming legacy
 EGMs by replacing them with our new Orion cabinet, which
 resulted in a significant increase in incremental revenue. When
 annualized, the effect of this optimization results in an increase in
 incremental revenue of nearly \$1.0 million. Another benefit of our
 yield optimization program is that we can take the older units from
 domestic casinos, refurbish them for approximately \$1,500 and
 redeploy them in Mexico. These redeployed units broaden our
 international footprint and generate a high return on investment

1 given the low cost to refurbish the units. Based on FY 2017
 2 revenue per day and related refurbishment expenditure figures, we
 3 estimate that our return on investment for each refurbished unit
 4 that is leased into the Mexican market is 172%.

5 * * *

6 ***Further Expand Our Class II Market Leadership and Continue***
 7 ***Growth of our Recurring Revenue Base***

8 We believe that our existing core Class II product offering is
 9 among the strongest in the industry and we are committed to
 10 growing our existing Class II installed base. Currently, we believe
 11 we are the second largest supplier of Class II games in the United
 12 States. We expect to continue gaining market share in our existing
 13 Class II jurisdictions as we introduce more games and new
 14 hardware, and we also intend to enter new Class II jurisdictions we
 15 have acquired 58 new Class II licenses in the past three and a half
 16 years. In the first quarter of 2018, there was a sizable Native
 17 American casino that opened and our Class II placements
 18 represented nearly 15% of the property's floor. We believe that the
 19 unique advantages offered by Class II gaming will result in Native
 20 American operators continuing to grow the number of Class II
 21 units that they have in their casinos. Given our existing leadership
 22 in the Class II market, we feel that we are very well-positioned to
 23 capture our share of this continued growth in Class II.

24 132. The August 2018 SPO Documents also reaffirmed that Oklahoma was the
 25 Company's most important market, stating in relevant part:

26 Oklahoma is our largest market and our EGMs in the state
 27 accounted for approximately 22% of our total revenue for the last
 28 twelve months ended June 30, 2018. Our largest customer is the
 29 Chickasaw Nation, a Native American gaming operator in
 30 Oklahoma, which accounted for approximately 11% of our total
 31 revenue for the last twelve months ended June 30, 2018. The
 32 revenues we earn from the Chickasaw Nation are derived from
 33 numerous agreements, which are up for renewal in 2019.

34 133. Further, the August 2018 SPO Documents incorporated by reference the risk
 35 disclosures as contained in the Company's 2017 annual report on Form 10-K, filed with the SEC
 36 on March 14, 2018. These included boilerplate risk disclosures related to the sustainability of
 37 PlayAGS' Oklahoma Business, as well as its internal controls over financial reporting, stating in
 38 relevant part:

39 ***We are continuing to improve our internal controls over***
 40 ***financial reporting.***

41 Our independent registered public accounting firm is not required
 42 to audit the effectiveness of our internal control over financial
 43 reporting until after we are no longer an "emerging growth

1 company,” as defined in the JOBS Act, which at the latest would
 2 be the end of the fiscal year following the fifth anniversary of the
 3 initial public offering. At such time, our internal controls over
 4 financial reporting may be insufficiently documented, designed or
 5 operating, which may cause our independent registered public
 6 accounting firm to issue a report that is adverse.

7 * * *

8 *State compacts with our existing Native American tribal
 9 customers to allow Class III gaming could reduce demand for
 10 our Class II games and our entry into the Class III market may
 11 be difficult as we compete against larger companies in the tribal
 12 Class III market.*

13 Most of our Class II Native American tribal customers have
 14 entered into compacts with the states in which they operate to
 15 permit the operation of Class III games. While we seek to also
 16 provide Class III alternatives in these markets, we believe the
 17 number of our Class II game machine placements in those
 18 customers’ facilities could decline, and our operating results could
 19 be materially and adversely affected. As our Native American
 20 tribal customers continue to transition to gaming under compacts
 21 with the state, we continue to face significant uncertainty in the
 22 market that makes our business in these states difficult to manage
 23 and predict and we may be forced to compete with larger
 24 companies that specialize in Class III gaming. We believe the
 25 establishment of state compacts depends on a number of political,
 26 social, and economic factors that are inherently difficult to
 27 ascertain. Accordingly, although we attempt to closely monitor
 28 state legislative developments that could affect our business, we
 29 may not be able to timely predict if or when a compact could be
 30 entered into by one or more of our Native American tribal
 31 customers. For example, in Oklahoma, the continued introduction
 32 of Class III games since the passage of the tribal gaming compact
 33 in 2004 may put pressure on our revenue and unit market share and
 34 our revenue share percentages and may result in a shift in the
 35 market from revenue share arrangements to a “for sale” model.

36 * * *

37 *For the year ended December 31, 2017, two customers were each
 38 responsible for approximately 11% of our total revenue and we
 39 generated approximately 24% and 11% of our total revenue in
 40 the states of Oklahoma and Alabama, respectively.*

41 For the year ended December 31, 2017, approximately 24% of our
 42 total revenue was derived from gaming operations in Oklahoma,
 43 and approximately 11% of our total revenue was from one Native
 44 American gaming tribe in that state. Additionally, for the year
 45 ended December 31, 2017, approximately 11% of our total revenue
 46 was derived from gaming operations in Alabama, and
 47 approximately 11% of our total revenue was from one Native
 48 American gaming tribe in that state. The significant concentration
 49 of our revenue in Oklahoma and Alabama means that local
 50 economic, regulatory and licensing changes in Oklahoma or

1 Alabama may adversely affect our business disproportionately to
 2 changes in national economic conditions, including adverse
 3 economic declines or slower economic recovery from prior
 4 declines. While we continue to seek to diversify the markets in
 5 which we operate, changes to our business, operations, game
 6 performance and customer relationships in Oklahoma or Alabama,
 7 due to changing gaming regulations or licensing requirements,
 8 higher taxes, increased competition, declines in market revenue
 9 share percentages or otherwise, could have a material and adverse
 10 effect on or financial condition and results of operations. In
 11 addition, changes in our relationship with our two largest
 12 customers, including any disagreements or disputes, a decrease in
 13 revenue share, removal of electronic gaming machines or non-
 14 renewal of contracts, could have a material and adverse effect on
 15 our financial condition and results of operations.

16 Moreover, neighboring states such as Kansas, Texas and Arkansas
 17 have passed or could pass gaming legislation, which could take
 18 market share from Oklahoma gaming facilities or otherwise
 19 negatively impact the Oklahoma gaming market and, as a result,
 20 negatively impact our results of operations.

21 134. The August 2018 SPO Documents were negligently prepared and, as a result,
 22 contained untrue statements of material facts or omitted to state other facts necessary to make the
 23 statements made not misleading, and were not prepared in accordance with the rules and
 24 regulations governing its preparation. Specifically, the August 2018 SPO Documents were
 25 materially false and misleading in that they omitted to state: (i) PlayAGS' growth strategies were
 26 failing; (ii) the Company was experiencing major execution issues in Oklahoma; (iii) therefore,
 27 the Company's purported competitive strengths were not reasonably likely to lead to increased
 28 revenue; (iv) the Company's internal controls over financial reporting were not effective; and (v)
 29 as a result of the foregoing, Defendants' positive statements about the Company's business,
 30 operations, and prospects were materially misleading and/or lacked a reasonable basis.

31 135. Moreover, under applicable SEC rules and regulations, the August 2018 SPO
 32 Documents were required to disclose known trends, events or uncertainties that were having, and
 33 were reasonably likely to have, an impact on the Company's continuing operations.

34 **C. False and Misleading Statements in the March 2019 SPO Documents**

35 136. Pursuant to the Shelf Registration Statement, on March 20, 2019, the Company
 36 filed a prospectus supplement on Form 424B1 with the SEC, which together with the Shelf
 37 Registration Statement, forms part of the March 2019 SPO Materials. In the March 2019 SPO,

1 PlayAGS, on behalf of Apollo Gaming, registered for resale up to an aggregate of 4,000,000
 2 shares of its common stock at the public offering price of \$25.50 per share. Net of underwriting
 3 discounts and commissions, the March 2019 SPO was valued at \$100,000,000. Directly prior to
 4 the March 2019 SPO, Apollo and Apollo Group beneficially held approximately 33 percent of
 5 PlayAGS common stock, and beneficially held approximately 22 percent following its
 6 completion.

7 137. The March 2019 SPO Documents, as did the August 2018 SPO Documents,
 8 included the Shelf Registration Statement, and therefore made the same representations
 9 regarding the Company's competitive strengths, growth strategies, as well as its Oklahoma
 10 business, as discussed in ¶¶ 130-132

11 138. Finally, the March 2019 SPO Documents incorporated the risk disclosures as
 12 contained in the Company's 2018 annual report on Form 10-K, filed with the SEC on March 5,
 13 2019. These included boilerplate risk disclosures related to the sustainability of PlayAGS'
 14 Oklahoma Business, as well as its internal controls over financial reporting, stating in relevant
 15 part:

16 *We are continuing to maintain our internal controls over
 17 financial reporting.*

18 Our independent registered public accounting firm is not required
 19 to audit the effectiveness of our internal control over financial
 20 reporting until after we are no longer an "emerging growth
 21 company," as defined in the JOBS Act, which at the latest would
 22 be the end of the fiscal year following the fifth anniversary of the
 23 initial public offering. At such time, our internal controls over
 24 financial reporting may be insufficiently documented, designed or
 25 operating, which may cause our independent registered public
 26 accounting firm to issue a report that is adverse.

27 * * *

28 *State compacts with our existing Native American tribal
 29 customers to allow Class III gaming could reduce demand for
 30 our Class II games and our entry into the Class III market may
 31 be difficult as we compete against larger companies in the tribal
 32 Class III market.*

29 Most of our Class II Native American tribal customers have
 30 entered into compacts with the states in which they operate to
 31 permit the operation of Class III games. While we seek to also
 32 provide Class III alternatives in these markets, we believe the
 33 number of our Class II game machine placements in those

1 customers' facilities could decline, and our operating results could
 2 be materially and adversely affected. As our Native American
 3 tribal customers continue to transition to gaming under compacts
 4 with the state, we continue to face significant uncertainty in the
 5 market that makes our business in these states difficult to manage
 6 and predict and we may be forced to compete with larger
 7 companies that specialize in Class III gaming. We believe the
 8 establishment of state compacts depends on a number of political,
 9 social, and economic factors that are inherently difficult to
 10 ascertain. Accordingly, although we attempt to closely monitor
 11 state legislative developments that could affect our business, we
 12 may not be able to timely predict if or when a compact could be
 13 entered into by one or more of our Native American tribal
 14 customers. For example, in Oklahoma, the continued introduction
 15 of Class III games since the passage of the tribal gaming compact
 16 in 2004 may put pressure on our revenue and unit market share and
 17 our revenue share percentages and may result in a shift in the
 18 market from revenue share arrangements to a "for sale" model.

19 * * *

20 ***We generate a substantial amount of our total revenue from two
 21 customers and in two states.***

22 For the year ended December 31, 2018, approximately 22% of our
 23 total revenue was derived from gaming operations in Oklahoma,
 24 and approximately 11% of our total revenue was from one Native
 25 American gaming tribe in that state. Additionally, for the year
 26 ended December 31, 2018, approximately 9% of our total revenue
 27 was derived from gaming operations in Alabama, and
 28 approximately 9% of our total revenue was from one Native
 29 American gaming tribe in that state. The significant concentration
 30 of our revenue in Oklahoma and Alabama means that local
 31 economic, regulatory and licensing changes in Oklahoma or
 32 Alabama may adversely affect our business disproportionately to
 33 changes in national economic conditions, including adverse
 34 economic declines or slower economic recovery from prior
 35 declines. While we continue to seek to diversify the markets in
 36 which we operate, changes to our business, operations, game
 37 performance and customer relationships in Oklahoma or Alabama,
 38 due to changing gaming regulations or licensing requirements,
 39 higher taxes, increased competition, declines in market revenue
 40 share percentages or otherwise, could have a material and adverse
 41 effect on our financial condition and results of operations. In
 42 addition, changes in our relationship with our two largest
 43 customers, including any disagreements or disputes, a decrease in
 44 revenue share, removal of electronic gaming machines or non-
 45 renewal of contracts, could have a material and adverse effect on
 46 our financial condition and results of operations.

47 139. The Company's 2018 annual report, incorporated by reference in the March 2019
 48 SPO Documents, also made the following representations concerning the Gameiom acquisition,
 49 including the consideration paid for its goodwill, stating in relevant part:

1 *AGS iGaming*

2 During the quarter ended June 30, 2018, the Company acquired all
 3 of the equity of Gameiom Technologies Limited (formerly known
 4 as “Gameiom”, currently known as “AGS iGaming”). AGS
 5 iGaming is a licensed gaming aggregator and content provider for
 6 real-money gaming (“RMG”) and sports betting partners. The
 7 acquisition was accounted for as an acquisition of a business and
 8 the assets acquired and liabilities assumed were measured based on
 9 our preliminary estimates of their fair values at the acquisition
 10 date. The estimated fair values of assets acquired and liabilities
 11 assumed and resulting goodwill are subject to adjustment as we
 12 finalize our fair value analysis. The significant items for which a
 13 final fair value has not been determined as of the filing of this
 14 report include the fair value of intangible assets. We expect to
 15 complete our fair value determinations no later than one year from
 16 the acquisition date.

17 We attribute the goodwill acquired to our ability to utilize AGS
 18 iGaming’s existing RMG platform to distribute our existing EGM
 19 game content into many markets, diversification of our Interactive
 20 segment’s product portfolio that now includes a real-money
 21 gaming solution and other strategic benefits. The total
 22 consideration for this acquisition was \$5.0 million, which included
 23 cash paid of \$4.5 million and \$0.5 million of deferred
 24 consideration that is payable within 18 months of the acquisition
 25 date. The consideration was preliminarily allocated primarily to
 26 goodwill that is not tax deductible for \$3.7 million and intangible
 27 assets of \$2.1 million, which will be amortized over a weighted
 28 average period of approximately 6.7 years years [sic].

19 The intangible assets consist primarily of customer relationships
 20 and a technology platform.

21 140. The March 2019 SPO Documents were negligently prepared and, as a result,
 22 contained untrue statements of material facts or omitted to state other facts necessary to make the
 23 statements made not misleading, and were not prepared in accordance with the rules and
 24 regulations governing its preparation. Specifically, the March 2019 SPO Documents were
 25 materially false and misleading in that they omitted to state: (i) PlayAGS’ growth strategies were
 26 failing; (ii) the Company was experiencing major execution issues in Oklahoma; (iii) therefore,
 27 the Company’s purported competitive strengths were not reasonably likely to lead to increased
 28 revenue; (iv) the Company’s internal controls over financial reporting were not effective; and (v)
 29 as a result of the foregoing, Defendants’ positive statements about the Company’s business,
 30 operations, and prospects were materially misleading and/or lacked a reasonable basis.

1 141. Moreover, under applicable SEC rules and regulations, the March 2019 SPO
 2 Offering Documents were required to disclose known trends, events, or uncertainties that were
 3 having, and were reasonably likely to have, an impact on the Company's continuing operations.

4 **D. Post-Offering Events**

5 142. On August 7, 2019, PlayAGS shocked the market by reporting a net loss of \$7.6
 6 million, or negative \$0.21 earnings per share (versus expectations of positive \$0.14 per share).
 7 This loss included an impairment of goodwill of \$3.5 million and an impairment of intangible
 8 assets of \$1.3 million related to the acquired AGS iGaming business within its Interactive
 9 segment. The Company also reported disappointing quarterly revenues of \$74.5 million (or
 10 growth of 2 percent year-over-year), and adjusted earnings before interest, taxes, depreciation,
 11 and amortization ("EBITDA") of \$35.7 million (down 2 percent year-over-year). PlayAGS also
 12 lowered its full-year 2019 adjusted EBITDA guidance to a range of \$145 million to \$150 million
 13 (or growth of 6 to 10 percent year-over-year), down from its previously issued guidance for a
 14 range of \$160 million to \$164 million.

15 143. PlayAGS attributed the weak results to product underperformance at three
 16 Oklahoma properties and problems with its placement of 800 incremental EGMs into the
 17 Oklahoma market over the past year, as well as the iGaming impairment charges and an increase
 18 in research and development operating expenses as part of its strategic growth initiatives.

19 144. That same day on an earnings call with analysts and investors, Defendant Lopez
 20 provided some detail about these issues, stating:

21 [W]e are experiencing some challenges in Oklahoma, where we
 22 have our largest base of recurring revenue, EGM.

23 We mentioned several factors for decreased [revenue per day]
 24 earlier and one of the issues we are actively working to fix is
 25 product underperformance. I'll give you some color on what's
 26 driving this. ***Over the past year***, we've grown our Oklahoma
 27 footprint with 800 incremental units and separately optimized
 28 numerous existing units. Some of the underperformance is a result
 of going too hard and fast into the market with certain products.
 We also went too deep into our portfolio of titles, where we should
 have focused on our most successful game themes."

(emphasis added).

1 145. In reaction to these disclosures, analysts expressed their concerns and
2 immediately downgraded PlayAGS stock. The news was such a surprise to Bank of America
3 Merrill Lynch that it downgraded its rating on PlayAGS stock by two levels (from “Buy” to
4 “Underperform”) and slashed its PlayAGS price target from \$30 to \$14 on concerns of faltering
5 growth.

6 146. By the commencement of this Action, PlayAGS stock was trading as low as \$3.58
7 per share, an approximately 88 percent decline from the \$29.25 per share August 2018 SPO
8 price, and 86 percent decline from the \$25.50 per share March 2019 SPO price.

COUNT III

**For Violation of Section 11 of the Securities Act
Against PlayAGS, the Individual Securities Act Defendants, and the Underwriter
Defendants**

12 147. As previously stated, the claim set forth herein pursuant to Section 11 of the
13 Securities Act is based solely on strict liability and negligence, and is not based on any knowing
14 or reckless conduct by or on behalf of any defendant—*i.e.*, it does not allege, and does not sound
15 in, fraud—and Plaintiff specifically disclaims any allegations of fraud, scienter, or recklessness
16 in this non-fraud claim. This claim does not sound in fraud.

17 148. Plaintiff repeats and incorporates each and every allegation contained in ¶¶ 96-
18 146 as if fully set forth herein, excluding any allegation of fraud, recklessness, or intentional
19 misconduct.

20 149. This Count is brought pursuant to Section 11 of the Securities Act, 15 U.S.C. §
21 77k, on behalf of the Class, against Defendant PlayAGS, each of the Individual Securities Act
22 Defendants, and each of the Underwriter Defendants..

23 150. The Shelf Registration Statement in the PlayAGS Offering Materials was
24 inaccurate and misleading, contained untrue statements of material facts, omitted to state other
25 facts necessary to make the statements made not misleading, and omitted to state material facts
26 required to be stated therein.

27 151. PlayAGS is the registrant and issuer of the common stock sold pursuant to the
28 PlayAGS Offering Materials' Shelf Registration Statement. As such, PlayAGS is strictly liable

1 for the materially inaccurate statements contained in that registration statement and the failure of
 2 that registration statement to be complete and accurate. By virtue of the PlayAGS Offering
 3 Materials containing material misrepresentations and omissions of material fact necessary to
 4 make the statements therein not false and misleading, PlayAGS is liable under Section 11 of the
 5 Securities Act to Plaintiff and the Class.

6 152. None of the Defendants named herein made a reasonable investigation or
 7 possessed reasonable grounds for the belief that the statements contained in the Shelf
 8 Registration Statement were true and without omissions of any material facts and were not
 9 misleading.

10 153. The Individual Securities Act Defendants each signed the PlayAGS Offering
 11 Materials' Shelf Registration Statement and caused its issuance. The Individual Securities Act
 12 Defendants each had a duty to make a reasonable and diligent investigation of the truthfulness
 13 and accuracy of the statement contained in that registration statement. They each had a duty to
 14 ensure that such statements were true and accurate and that there were no omissions of material
 15 fact that would make the statements misleading. By virtue of each of the Individual Securities
 16 Act Defendants' failure to exercise reasonable care, the Shelf Registration Statement contained
 17 material misrepresentations of material fact and omissions of material fact necessary to make the
 18 statements therein not misleading. As such, each of the Individual Securities Act Defendants is
 19 liable under Section 11 of the Securities Act to Plaintiff and the Class.

20 154. Each of the Underwriter Defendants served as an underwriter for the August 2018
 21 SPO and/or March 2019 SPO and qualify as such according to the definition contained in
 22 Section 2(a)(11) of the Securities Act, 15 U.S.C. § 77b(a)(11). As such, they participated in the
 23 solicitation, offering, and sale of the securities to the investing public pursuant to the Shelf
 24 Registration Statement. Each of the Underwriter Defendants, as an underwriter of the securities
 25 offered in the August 2018 SPO and/or March 2019 SPO pursuant to the Shelf Registration
 26 Statement, had a duty to make a reasonable and diligent investigation of the truthfulness and
 27 accuracy of the statements contained in the Shelf Registration Statement. They each had a duty
 28 to ensure that such statements were true and accurate and that there were no omissions of

1 material fact that would make the statements misleading. By virtue of each of the Underwriter
2 Defendants' failure to exercise reasonable care, the Shelf Registration Statement contained
3 misrepresentations of material fact and omissions of material fact necessary to make the
4 statements therein not misleading. As such, each of the Underwriter Defendants is liable under
5 Section 11 of the Securities Act to Plaintiff and the class.

6 155. None of the untrue statements or omissions of material fact in the Shelf
7 Registration Statement alleged herein was a forward-looking statement. Rather, each such
8 statement concerned existing facts. Moreover, the Shelf Registration Statement did not properly
9 identify any of the untrue statements as forward-looking statements and did not disclose
10 information that undermined the putative validity of those statements.

11 156. Each of the Securities Act Defendants named in this Count issued, caused to be
12 issued, and participated in the issuance of materially untrue and misleading written statements to
13 the investing public that were contained in the registration statement, which misrepresented and
14 failed to disclose, *inter alia*, the fact set forth above. By reasons of the conduct herein alleged,
15 each such Defendant violated Section 11 of the Securities Act.

16 157. Plaintiff and the Class have sustained damages. The value of PlayAGS common
17 stock has declined substantially subsequent to and due to violations by the Securities Act
18 Defendants named in this Count.

19 158. At the time of their purchases of PlayAGS common stock, Plaintiff and other
20 members of the Class were without knowledge of the facts concerning the conduct alleged herein
21 and could not have reasonably discovered those facts prior to the disclosures alleged herein.
22 Less than one year has elapsed from the time that Plaintiff discovered, or reasonably could have
23 discovered, the facts upon which this complaint is based to the time that Plaintiff filed this
24 action. Less than three years has elapsed between the time that the securities upon which this
25 count is brought were offered to the public and the time Plaintiff filed this action.

26

27

28

COUNT IV

For Violation of Section 12(a)(2) of the Securities Act Against the Securities Act Defendants

159. As previously stated, the claim set forth herein pursuant to Section 12(a)(2) of the Securities Act is based solely on strict liability and negligence, and is not based on any knowing or reckless conduct by or on behalf of any defendant—*i.e.*, it does not allege, and does not sound in, fraud—and Plaintiff specifically disclaims any allegations of fraud, scienter, or recklessness in this non-fraud claim. This claim does not sound in fraud.

160. Plaintiff repeats and incorporates each and every allegation contained in ¶¶ 96-158 as if fully set forth herein, excluding any allegation of fraud, recklessness, or intentional misconduct.

161. This Cause of Action is brought pursuant to Section 12(a)(2) of the Securities Act, 15 U.S.C. § 77l(a)(2), on behalf of the Class, against PlayAGS, the Individual Securities Act Defendants, the Underwriter Defendants, Apollo, and Apollo Group.

162. Each of the Defendants named in this Count were sellers, offerors, and/or solicitors of purchases of the Company's common stock pursuant to the defective prospectuses which respectively formed in relevant part the PlayAGS Offering Materials. The actions of solicitation by the Securities Act Defendants include participating in the preparation of the false and misleading prospectuses and marketing the common stock to investors, such as Plaintiff and other members of the Class.

163. The prospectuses contained untrue statements of material fact, omitted to state other facts necessary to make statements made therein not misleading, and omitted to state material facts required to be stated therein.

164. Each of the Securities Act Defendants owed Plaintiff and other members of the Class who purchased or otherwise acquired PlayAGS common stock pursuant to the prospectuses issued in connection with the PlayAGS Offering Materials a duty to make a reasonable and diligent investigation of the statements contained in the prospectuses to ensure that such statements were true and that there was no omission to state a material fact required to

1 be stated in order to make the statements contained therein not misleading. By virtue of each of
2 the Securities Act Defendants' failure to exercise reasonable care, the prospectuses contained
3 misrepresentations of material fact and omissions of material fact necessary to make the
4 statements therein not misleading.

5 165. Plaintiff and the members of the Class did not know, nor in the exercise of
6 reasonable diligence could have known, of the untruths and omissions contained in the
7 prospectuses issued in connection with the prospectuses at the time they purchased or otherwise
8 acquired PlayAGS common stock.

9 166. By reason of the conduct alleged herein, the Securities Act Defendants violated
10 Section 12(a)(2) of the Securities Act. As a direct and proximate result of such violations,
11 Plaintiff and the other members of the Class who purchased or otherwise acquired PlayAGS
12 common stock pursuant to the prospectuses issued in connection with the PlayAGS Offering
13 Materials sustained substantial damages in connection therewith. Accordingly, Plaintiff and the
14 other members of the Class who hold the common stock issued pursuant to the prospectuses
15 issued in connection with the PlayAGS Offering Materials have the right to rescind and recover
16 the consideration paid for their shares with interest thereon or damages as allowed by law or in
17 equity. Class members who have sold their PlayAGS common stock seek damages to the extent
18 permitted by law.

19 167. Less than one year has elapsed from the time that Plaintiff discovered, or
20 reasonably could have discovered, the facts upon which this complaint is based to the time that
21 Plaintiff filed this action. Less than three years has elapsed between the time that the securities
22 upon which this count is brought were offered to the public and the time Plaintiff filed this
23 action.

COUNT V

**For Violation of Section 15 of the Securities Act
Against the Individual Securities Act Defendants, Apollo, and Apollo Group**

168. As previously stated, the claim set forth herein pursuant to Section 15 of the
27
28 Securities Act is based solely on strict liability and negligence, and is not based on any knowing

1 or reckless conduct by or on behalf of any defendant—*i.e.*, it does not allege, and does not sound
 2 in, fraud—and Plaintiff specifically disclaims any allegations of fraud, scienter, or recklessness
 3 in this non-fraud claim. This claim does not sound in fraud.

4 169. Plaintiff repeats and incorporates each and every allegation contained in ¶¶ 96-
 5 167 as if fully set forth herein, except any allegation of fraud, recklessness, or intentional
 6 misconduct.

7 170. This Cause of Action is brought pursuant to Section 15 of the Securities Act, 15
 8 U.S.C. § 77o, on behalf of the Class, against each of the Individual Securities Act Defendants,
 9 Apollo, and Apollo Group.

10 171. The Individual Securities Act Defendants each were controlling persons of
 11 PlayAGS by virtue of their positions as directors and/or senior officers of PlayAGS and/or
 12 Apollo and/or Apollo Group. The Individual Securities Act Defendants each had a series of
 13 direct and/or indirect business and/or personal relationships with other directors and/or officers
 14 and/or major shareholders of PlayAGS, including Apollo and Apollo Group. Certain of the
 15 Individual Securities Act Defendants, as outlined in ¶¶ 98-105, signed the Shelf Registration
 16 Statement issued in connection with the PlayAGS Offerings and were responsible for its
 17 contents.

18 172. Apollo and Apollo Group were the majority owners and controlled the Company
 19 leading up to the August 2018 SPO. In addition to controlling a majority of PlayAGS's voting
 20 shares at that time, Apollo and Apollo Group also appointed and had significant influence over
 21 the Company's management and majority of its Board. They also were parties to various
 22 shareholder agreements with each other and the Company that gave them even further control of
 23 the Company above and beyond the amount of their voting control, as defined herein.

24 173. Apollo, Apollo Group, and Individual Securities Act Defendants, each were
 25 culpability participants in the violations of Sections 11 and 12(a)(2) of the Securities Act alleged
 26 in the Cause of Action above, and exercised control over PlayAGS based on their having signed
 27 or authorized the signing of the Shelf Registration Statement, selling PlayAGS shares in the
 28

1 PlayAGS Offerings and/or having otherwise participated in the process that allowed the
 2 PlayAGS Offerings to be successfully completed.

3 174. By reason of the conduct alleged herein, these Defendants violated Section 15 of
 4 the Securities Act and Plaintiff and the members of the Class have suffered harm as a result

5 **XI. CLASS ACTION ALLEGATIONS AS TO ALL CLAIMS ASSERTED HEREIN**

6 175. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil
 7 Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that
 8 purchased or otherwise acquired: (i) PlayAGS common stock throughout the Class Period;
 9 and/or (ii) pursuant and/or traceable to the PlayAGS Offering Materials issued in connection
 10 with the PlayAGS Offerings (the “Class”). Excluded from the Class are: Defendants; the
 11 Excluded D&Os; members of Defendants’ and the Excluded D&Os’ immediate families; the
 12 subsidiaries and affiliates of the Company, including the Company’s employee retirement and
 13 benefit plan(s) and their participants or beneficiaries, to the extent they made purchases through
 14 such plan(s); any entity in which Defendants or the Excluded D&Os have or had a controlling
 15 interest; and the legal representatives, heirs, successors or assigns of any excluded person or
 16 entity.

17 176. The members of the Class are so numerous that joinder of all members is
 18 impracticable. In connection with the PlayAGS Offerings, the Company registered 10,325,000
 19 shares of common stock for sale to the investing public on behalf of Apollo Gaming. Moreover,
 20 as of March 2, 2020, PlayAGS reported 35,544,601 total outstanding shares of its common stock.
 21 At all relevant times, PlayAGS’s common shares actively traded on the NYSE. While the exact
 22 number of Class members is unknown to Plaintiff at this time and can only be ascertained
 23 through appropriate discovery, Plaintiff believes that there are at least hundreds or thousands of
 24 members in the proposed Class. Millions of PlayAGS common stock were traded publicly
 25 during the Class Period on the NYSE. Record owners and other members of the Class may be
 26 identified from records maintained by PlayAGS or its transfer agent and may be notified of the
 27 pendency of this action by mail, using the form of notice similar to that customarily used in
 28 securities class actions.

1 177. There is a well-defined community of interest in the questions of law and fact
 2 involved in this case. Questions of law and fact common to the members of the Class which
 3 predominate over questions which may affect individual Class members include:

4 (a) whether the Exchange Act Defendants violated the Exchange Act by
 5 making material misrepresentations or omissions throughout the Class Period;

6 (b) whether the Exchange Act Defendants knew or recklessly disregarded that
 7 their statements were false and misleading;

8 (c) whether the Individual Exchange Act Defendants, Apollo, and Apollo
 9 Group are liable as “controlling persons” under Section 20(a) of the Exchange Act for underlying
 10 violations of Section 10(b) of the Exchange Act;

11 (d) whether the Securities Act Defendants violated Sections 11 and 12(a)(2)
 12 of the Securities Act by negligently misrepresenting or omitting material information in the
 13 PlayAGS Offering Documents;

14 (e) whether the Individual Securities Act Defendants, Apollo, and Apollo
 15 Group are liable as “controlling persons” under Section 15 of the Securities Act for underlying
 16 violations of Sections 11 and 12(a)(2) of the Securities Act;

17 (f) whether the price of PlayAGS common stock was artificially inflated at
 18 the time of the PlayAGS Offerings and throughout the Class Period; and

19 (g) to what extent the members of the Class have sustained damages and the
 20 proper measure of damages.

21 178. Plaintiff’s claims are typical of the claims of the members of the Class as all
 22 members of the Class are similarly affected by Defendants’ wrongful conduct in violation of
 23 federal law that is complained of herein.

24 179. Plaintiff will fairly and adequately protect the interests of the members of the
 25 Class and has retained counsel competent and experienced in class actions and securities
 26 litigation.

27 180. A class action is superior to all other available methods for the fair and efficient
 28 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as

1 the damages suffered by individual Class members may be relatively small, the expense and
2 burden of individual litigation makes it impossible for members of the Class to individually
3 redress the wrongs done to them. There will be no difficulty in the management of this action as
4 a class action.

5 **XII. PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

7 A. Determining that this Action is a proper class action under Rule 23 of the Federal
8 Rules of Civil Procedure;

9 B. Awarding compensatory damages in favor of Plaintiff and the other Class
10 members against the Exchange Act Defendants for the alleged Exchange Act violations alleged
11 herein, as well as damages and other remedies set forth in the Securities Act in favor of Plaintiff
12 and other Class Members against the Securities Act Defendants for the Securities Act violations
13 alleged herein, both jointly and severally, in an amount to be proven at trial, including interest
14 thereon;

15 C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in
16 this action, including counsel fees and expert fees; and

17 D. Such other and further relief as the Court may deem just and proper.

18 **XIII. JURY TRIAL DEMANDED**

19 Plaintiff hereby demands a trial by jury.

20 DATED: August 4, 2020

Respectfully submitted,

21 */s/ Don Springmeyer* _____
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23 **SCHULMAN & RABKIN, LLP**
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Attorneys for Plaintiff

CERTIFICATION

I, Ginger Sigler, as Executive Director of Oklahoma Police Pension and Retirement System (“Oklahoma Police”), hereby certify as follows:

1. I am fully authorized to enter into and execute this certification on behalf of Oklahoma Police. I have reviewed a complaint prepared against PlayAGS, Inc. (“PlayAGS”), alleging violations of the federal securities laws and authorize the filing of this pleading;
2. Oklahoma Police did not transact in the securities of PlayAGS at the direction of counsel or in order to participate in any private action under the federal securities laws;
3. Oklahoma Police is willing to serve as a lead plaintiff and representative party in this matter, including providing testimony at deposition and trial, if necessary. Oklahoma Police fully understands the duties and responsibilities of the lead plaintiff under the Private Securities Litigation Reform Act, including the selection and retention of counsel and overseeing the prosecution of the action for the Class;
4. Oklahoma Police’s transactions in PlayAGS securities are reflected in Exhibit A attached hereto;
5. Oklahoma Police sought to serve and was appointed as either a lead plaintiff or representative party in the following class actions filed under the federal securities laws during the last three years:

Milbeck v. TrueCar, Inc., No. 2:18-cv-2612 (C.D. Cal.)
Oklahoma Police Pension and Retirement System v. Nevro Corporation,
No. 3:18-cv-5181 (N.D. Cal.)
Ronge v. Camping World Holdings, Inc., No. 1:18-cv-7030 (N.D. Ill.)
Mo-Kan Iron Workers Pension Fund v. Teligent, Inc., No. 1:19-cv-3354 (S.D.N.Y.)
Plymouth County Retirement System v. Evolent Health, Inc., No. 1:19-cv-1031 (E.D. Va.)
Logan v. ProPetro Holding Corp., No. 7:19-cv-0217 (W.D. Tex.)
Oklahoma Police Pension and Retirement System v. Sterling Bancorp, Inc., No. 5:20-cv-10490 (E.D. Mich.)
6. Oklahoma Police sought to serve as a lead plaintiff but was not appointed in the following class actions filed under the federal securities laws during the last three years:

Hessefort v. Super Micro Computer, Inc., No. 4:18-cv-0838 (N.D. Cal.)
City of Birmingham Firemen's and Policemen's Supplemental Pension System v. Pluralsight, Inc., No. 1:19-cv-7563 (S.D.N.Y.)

7. Beyond its pro rata share of any recovery, Oklahoma Police will not accept payment for serving as a lead plaintiff and representative party on behalf of the Class, except the reimbursement of such reasonable costs and expenses (including lost wages) as ordered or approved by the Court.

I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct this 18th day of June, 2020.

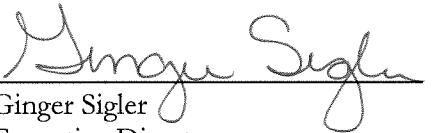

Ginger Sigler
Executive Director
Oklahoma Police Pension and Retirement System

EXHIBIT A

TRANSACTIONS IN PLAYAGS, INC.

Transaction Type	Trade Date	Shares	Price Per Share	Cost / Proceeds
Purchase	07/09/18	2,771.00	\$28.21	(\$78,171.85)
Purchase	07/09/18	3,741.00	\$28.29	(\$105,850.10)
Purchase	07/10/18	2,078.00	\$28.22	(\$58,640.33)
Purchase	07/11/18	471.00	\$28.20	(\$13,281.02)
Purchase	07/11/18	2,508.00	\$28.28	(\$70,925.74)
Purchase	07/12/18	836.00	\$28.14	(\$23,528.30)
Purchase	07/16/18	1,080.00	\$28.43	(\$30,707.32)
Purchase	07/17/18	3,344.00	\$28.32	(\$94,697.06)
Purchase	07/17/18	3,464.00	\$28.40	(\$98,360.28)
Purchase	08/02/18	1,426.00	\$28.49	(\$40,619.61)
Purchase	08/02/18	2,395.00	\$28.64	(\$68,584.66)
Purchase	08/02/18	2,395.00	\$28.64	(\$68,584.66)
Purchase	08/03/18	718.00	\$30.07	(\$21,586.74)
Purchase	08/03/18	1,104.00	\$30.36	(\$33,520.75)
Purchase	08/03/18	818.00	\$30.87	(\$25,250.51)
Purchase	08/09/18	11,907.00	\$29.25	(\$348,279.75)
Purchase	08/10/18	5,974.00	\$29.50	(\$176,221.65)
Sale	12/17/18	-5,048.00	\$22.19	\$112,015.12
Sale	08/08/19	-3,716.00	\$6.45	\$23,968.20
Sale	08/08/19	-7,431.00	\$6.58	\$48,877.40
Sale	08/08/19	-12,954.00	\$7.13	\$92,381.45
Sale	08/08/19	-1,162.00	\$7.13	\$8,286.80
Sale	08/08/19	-10,745.00	\$7.25	\$77,850.75
Sale	08/08/19	-5,974.00	\$7.25	\$43,283.42